SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1962

No. 97

THE BALTIMORE & OHIO RAILROAD COMPANY, ET AL., APPELLANTS,

vs.

BOSTON AND MAINE RAILROAD, ET AL.

No. 98

MARYLAND PORT AUTHORITY, ET AL., APPELLANTS,

vs.

BOSTON AND MAINE RAILROAD, ET AL.

No. 99

INTERSTATE COMMERCE COMMISSION, APPELLANT,

vs.

BOSTON AND MAINE RAILROAD, ET AL.

APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

INDEX

RECORD PRESS, PRINTERS, NEW YORK, N. Y., NOVEMBER, 1962

VOLUME II

	Original	Print
Proceedings before the Interstate Commerce Commission—Continued		
Transcript of hearing, February 17 to September 17, 1958—Continued		
Testimony of A. J. Kneese—		
direct	645	491
cross	646	491
Offers in evidence	671	509
Testimony of K. G. Crowl—		
direct	677	512
cross	685	517
Offer in evidence	752	565
Testimony of K. G. Crowl—		
redirect	752	565
Offer in evidence	756	568
Testimony of C. F. Keeley—		
direct	757	568
cross	757	569
redirect	785	588
recross	787	590
redirect	788	590
recross	788	590
George E. Miller—		
direct	791	593
cross	798	597
Offers in evidence	800	598
Testimony of Leonard A. Drake—		
direct	803	601
cross	804	601
Offer in evidence	813	608
Testimony of T. Jefferson, Jr.—		
direct	816	610
cross	817	610
redirect	850	633
Offer in evidence	850	633
Testimony of George Roach—		
direct	851	634
cross	853	635

	Original	Print
Proceedings before the Interstate Commerce Commission—Continued		
Transcript of hearing, February 17 to September 17, 1958—Continued		
Testimony of W. S. Hamill—		
direct	861	640
cross	862	641
Offers in evidence	908	672
Testimony of Geoffrey M. Footner—		
direct	912	674
cross	912	675
Offer in evidence	914	676
Testimony of Samuel Shapiro—		
direct	915	677
cross	916	677
Offer in evidence	928	686
Testimony of Walter V. Connor—		
direct	929	686
cross	929	687
Offer in evidence	944	696
Testimony of Norman R. Wittkamp—		
direct	945	697
cross	945	697
Offers in evidence	954	703
Testimony of E. Arch Seidl—		
direct	957	705
cross	957	705
Offer in evidence	961	708
Testimony of C. E. Childe—		
direct	963	709
cross	970	714
Offer in evidence	1005	737
Testimony of C. R. Seal—		
direct	1005	738
cross	1007	739
Offer in evidence	1013	743
Testimony of George Roach— resumed—		
cross	1014	774
redirect	1087	792
Offer in evidence	1088	793

	Original	Print
Proceedings before the Interstate Commerce Commission—Continued		
Transcript of hearing: February 17 to September 17, 1958—Continued		
Testimony of W. C. Sawyer—		
direct	1088	793
cross	1089	794
redirect	1097	799
recross	1100	801
further redirect	1103	803
further recross	1104	804
Offer in evidence	1105	805
Testimony of T. Jefferson, Jr.— recalled—		
direct	1106	805
cross	1106	806
R. E. Petterson—		
cross	1108	807
Offer in evidence	1114	811
Testimony of W. M. Warren—		
direct	1115	812
cross	1115	812
redirect	1130	822
Offers in evidence	1131	822
Testimony of Alvin K. Thomas—		
direct	1149	833
cross	1150	833
redirect	1169	846
Offer in evidence	1174	849
Testimony of H. A. Kenz—		
direct	1175	850
cross	1175	850
redirect	1183	855
Offer in evidence	1183	855
Testimony of Joseph L. Stanton—		
direct	1183	855
cross	1186	857
redirect	1208	871
recross	1209	872
Offer in evidence	1211	873

	Original	Print
Proceedings before the Interstate Commerce Commission—Continued		
Transcript of hearing, February 17 to September 17, 1958—Continued		
Testimony of Charles A. Masson—resumed—		
direct	1212	874
cross	1212	874
redirect	1236	890
Offers in evidence	1237	891
Testimony of Michael M. Mora—		
direct	1239	893
cross	1241	894
Offers in evidence	1268	912
Testimony of J. L. Heywood—resumed—		
direct	1275	916
cross	1277	917
E. M. Talbott—		
direct	1393	995
cross	1395	996
J. L. Heywood—recalled—		
further cross	1452	1032
John B. Bourne—		
direct	1494	1060
cross	1495	1060
F. H. Clark—		
cross	1504	1067

A. J. KNEESY was sworn as a witness and testified as follows:

Mr. Claytor: May the record show I hand to the reporter a signed verified statement of A. J. Kneesy, accompanied by two exhibits marked AJK-1 and AJK-2.

Direct examination.

By Mr. Claytor:

Q. Did you hear the cross-examination of Mr. Laux?

Exam. Boat: That will be identified as exhibit 55.

(Exhibit No. 55, Witness Kneesy, was marked for identification in support of Protestants.)

Exam. Boat: Off the record.

(Discussion was off the record.)

Exam. Boat: On the record.

By Mr. Claytor:

Q. I withdraw my question. I will ask you another. Are the cigarettes shown on your exhibit AJK-1 as being exported through the Port of New York consumed on board ship or are they exported to foreign destinations?

A. If any of them are consumed on board ship, the consignee is going to file claim against someone.

Q. Thank you.

A. Those are commercial shipments.

Mr. Claytor: The witness is tendered for cross examination.

[fol. 646] Cross examination.

By Mr. Foley:

Q. Mr. Kneesy, so far as export traffic is concerned?

A. Yes, sir.

Q. I understand all your shipments are from Petersburg, Virginia, or virtually all?

A. Virtually all.

Q. So then so far as export traffic is concerned, you have no direct interest in this proceeding?

A. Oh, very definitely.

Q. So far as export traffic?

A. Yes.

Q. Why?

A. Because the level of the freight charges we pay, on all of our tonnage, which is directly influenced by sound or unsound policies pursued by the railroads as a whole in their rate and competitive practices.

Q. Do you have competitors in differential territory or affected territory?

A. Well, there were 4 tobacco companies in Louisville.

Q. And they ship cigarettes out?

A. They all make cigarettes. Now to what degree each individual company produces cigarettes at Louisville for export, I cannot answer.

Q. Is your interest in this—in their not having a lower [fol. 647] rate at New York such as we propose in this proceeding?

A. My interest, as I said a few moments ago—

Q. Will you answer that question, please, sir? Is your interest what I mentioned?

A. Is what?

Mr. Foley: Will the reporter read it, please?

(The reporter read back the question.)

The Witness: In who not having a lower rate?

By Mr. Foley:

Q. Your competitors, who ship from CFA territory and could ship through New York?

A. I did not say they shipped from CFA. I did not know. There are four tobacco companies in Louisville.

Q. You did not know if they ship?

A. I do not know if they ship for export, because each company has manufacturing facilities in North Carolina and Virginia.

Q. Is it your answer it is not because of your competitors, that that does not play any part in your position?

A. I think in my statement, sir, I explained what my interest was in this case.

Q. I want to know—

A. I am going to stand on my statement.

Q. Would you mind answering the question? The question is, are you influenced in your testimony with respect to export traffic by the fact that you have competitors in [fol. 648] CFA territory, or in differential territory?

A. No, sir.

Q. O.K.

On page 5 of your testimony you refer to getting of import licenses.

Can you tell me what is the procedure in getting an import license?

This is your foreign customer, I take it?

A. Yes.

For example, up until about a year ago there was a period of roughly a year and a half when we did not export any cigarettes to Columbia, because our distributor in Columbia was unable to obtain a permit to import.

Now, I would say his inability to obtain these permits was because that particular company had an unfavorable dollar balance.

Q. Is it very common for your customers not to be able to get licenses?

A. Well, I am not in the sales—

Q. Yes or no, is it?

A. I want to give you the best answer I can.

Q. My question is very simple.

Mr. Claytor: Let him answer the question, Mr. Foley.

Mr. Foley: It can be answered yes or no, and it can only be properly answered yes or no.

[fol. 649] Mr. Claytor: I do not think so.

The Witness: I would not want to say yes or no to the question if I had quit beating my wife.

By Mr. Foley:

Q. That is not the question. It is a simple question.

A. That is a question you would have to direct to our sales department.

Q. You do not know the answer?

A. Except by hearsay.

Q. O.K. You have referred to quicker delivery, meaning that you would get a re-order more quickly on page 5 of your testimony.

A. Yes, sir, I said that was one of the factors.

Q. Isn't it a matter purely of planning, because you make quicker delivery people do not consume or dispose of cigarettes more rapidly, do they?

A. I just explained—

Q. Do they?

A. It is not the people who smoke the cigarettes.

Q. The customers dispose of them?

A. The distributor has to have the cigarettes to make them available to the consumer in the local market before he can sell them to the consumer.

Q. That is right, but that is purely a matter of timing and ordering, is it not?

[fol. 650] A. Also the question as to whether you get an import permit. I just told you—

Q. It all comes down to the import permit, is that right?

A. No, sometimes the question of getting dollars. It takes a lot of money to buy cigarettes, and a man does not want his money tied up any longer than necessary.

Q. You can't tell me how frequently you have an import license problem? Or your customer does?

A. No, that would be the sales department, or the customer himself. If he cannot get import permit, he would not give us an order.

Q. You do not know?

A. That is right.

Q. O.K.

Now, I understand that you take the position that low-rated traffic normally would not move against the differential, isn't that the position you have taken?

A. I do not think I said that. I think I said—

Mr. Hanifin: Mr. Kneesy, let him identify your testimony for you.

The Witness: Where do I say that?

By Mr. Foley:

Q. You were talking about taking leaf tobacco in at the differential ports because—

Mr. Hanifin: What page, sir?

Mr. Foley: Around page 7 or page 8.

[fol. 651] Mr. Hanifin: Page what?

Mr. Foley: It is around page 7 or 8—page 9. I am sorry.

By Mr. Foley:

Q. On such traffic, that is, leaf tobacco, the cost factor usually takes precedence over the service factor, that is because it is a low-rated commodity, is it not—low-value commodity?

A. No, sir, import leaf tobacco is not low-value, and I am not so sure that the rates are low. I answered your question at the end of the first paragraph on page 2, in the purchase of transportation requirements there are two considerations which control. Costs of transportation and service requirements.

Both of these factors are important, but on certain types of movements—I did not say commodities—services are a dominant factor while on other types of movements cost is controlling.

Q. And on leaf tobacco, you normally—normally cost is controlling, is that it?

A. Because service is not a factor.

Q. Righto.

Now, the cigarettes you ship to New York, are those high-rated commodities?

A. Yes, I think they are too highly rated.

Q. You pay about 65 cents a hundred pounds more to ship through New York than through Norfolk, do you not?

[fol. 652] A. I think I have said here the motor carrier rate was $1.02 to New York and 37 cents to Norfolk, or Hampton Roads, and since then, I believe as of March 15, the Norfolk rate was reduced to 32 cents, so that would make a difference today of 70 cents a hundred.

Q. So you pay really a 70-cent per 100 pound premium?

A. That is right.

Q. That is a pretty substantial premium, is it not?

A. It certainly is.

Q. You would not think cigarettes were typical of general cargo, would you?

A. I cannot answer.

Q. It is a pretty high value commodity, is it not?

A. I do not know what the conditions are with respect to other commodities.

Q. In other words, you don't—

A. I have been told—

Q. You are not claiming it is typical of other commodities?

A. I am not conceding that it is not, because I do not know.

Q. You are taking no position.

A. That is right.

Q. Righto. Now, you have talked about your preference in theory, as I understand it, for a railroad cost determining freight rates, am I correct in that?

A. No, let me put it this way, if I may. Cost, rather, [fol. 653] when it comes to competition, between various modes of transportation, various port areas, I think the motor transportation or that port area which can do the lower job should be allowed to do that for two reasons, so that everybody engaged in transportation and in port areas will have a continuing urge to do a better job, and the economy as a whole, always will receive the benefit of someone's ability to do a better job.

Q. Do you know, Mr. Kneesy, whether Baltimore is nearer most points in affected territory than Norfolk?

A. Are we talking about costs now?

Q. We are talking about distance at the moment.

A. I am not interested in distance.

Q. I am.

I am asking you whether you know that Baltimore is nearer most points in affected territory than Norfolk?

A. Well, if you will wait a minute. I had one of the boys make a check here of some mileages, but I do not know whether we took Baltimore or not. I mean, if I have it in the file, and I can say yes, all right; if I haven't got it, I will say I do not know.

Frankly, I do not think this was distance, I think it was class rates.

Q. Don't you know the answer to this without looking it up?

A. No, I do not. I am telling you the truth.

[fol. 654] Q. You do not know the relation between Hampton Roads and Baltimore and differential territory?

A. You said New York, I thought.

Q. No, I am sorry. I intended to and thought I did say Hampton Roads and Baltimore to affected territory.

A. Well, my curbstone opinion is that Baltimore is the lower.

Q. Do you think Baltimore ought to have a lower rate than Norfolk?

A. If Baltimore—

Q. Do you think Baltimore ought to have a lower rate?

A. Not because of distance alone, absolutely not. The Commission recognized that in 206, when they gave the Southern roads a lesser increase than they did the northern roads.

Q. Do you know there are a number of working routes, do you not, from Norfolk, to affected territory?

A. Yes.

Q. Some of those are longer than others?

A. Well, that is typical of anything.

Q. Some of them are significantly longer, are they not?

A. I would want to check the application of all the rates from all the ports to a particular point in Central Territory.

Q. I am talking now about Norfolk—

[fol. 655] A. I know—before I would be in a position to say that the routes, that some routes from Norfolk are more circuitous than they are from Baltimore.

Q. That is not the question.

My question was, are there not some routes from Norfolk to affected territory that are appreciably longer than other routes from Norfolk to affected territory?

A. Well, I would say there is some degree—

Q. Some degree of circuity?

A. That is right.

Q. Do you think on your theory, do you think that the longer route ought to have the higher rate, and the shorter route ought to have the lower rate?

A. I should say this: That I do not think the public—

Q. Do you—

A. I am answering your question: I do not think the public should be compelled to pay a rate to Norfolk, or to any other place for that matter, to make it possible for the circuitous route to handle the traffic on a remunerative basis.

In other words, if the circuitous route cannot participate on a remunerative basis in traffic which pays the short-haul routes a reasonable return for the service performed, then I say the circuitous route should "flag" out of the traffic.

Q. Let me ask you. Supposing all of the routes from [fol. 656] Norfolk to affected territory, that overall of the routes you have a compensatory rate.

Do you think you should have a lower rate over the shorter route and a higher rate over the longer route?

A. I didn't say that.

Q. You do or you do not think that?

A. I do not.

Q. You do not?

A. Even those routes—

Q. You have answered my question.

A. Based on costs.

Q. You shipped some 22 per cent of your cigarettes through Hampton Roads, I gather?

A. That is what the exhibit shows.

Q. Do you or your customers have any difficulty in financing those shipments?

A. Well now you are coming back to the import permit again.

Q. Do you or your customers have any difficulty in financing those shipments?

A. Well, let me put it this way: As far as I know, and think I am right, because my department gets copies of all letters of credit. All letters of credit sent upon our shipments happen to be cleared through a New York bank, but as to whether that is because the banks in Norfolk,

[fol. 657] Baltimore and Philadelphia are not qualified to handle that business, I do not know.

Q. You do not know?

A. No, I do not, and I don't think the company cares so long as it gets its money.

Q. You do get your money?

A. That is what we sell cigarettes for, yes, sir.

Q. You get it just as readily, don't you on the shipments that go through Norfolk as well as the ones that go through New York?

A. As far as we are concerned.

Mr. Foley: No further questions.

Exam. Boat: Mr. Miller?

Cross examination.

By Mr. Miller:

Q. Turn to page 10 of your statement, will you?

A. Yes, sir.

Q. You say, since, however, service via New York is superior to service via other ports—in that statement, are you speaking of the import or export traffic?

A. Export.

Q. Not of the import?

A. Wait a minute. Whereabouts on that statement?

Q. The bottom of page 10.

Mr. Hanifin: The last paragraph.

[fol. 658] The Witness: Service on the whole, via New York, whether it is import or export, based on our experience, is superior.

By Mr. Miller:

Q. I know you go to considerable length in that about your export traffic?

A. That is right.

Q. On this part of page 10, are you speaking about export or import traffic?

A. There I would say both. Both import and export.

Q. All right.

How is service via New York superior, let's say, to Hampton Roads on your import traffic?

A. It all depends on what the import traffic is.

Q. You tell me.

A. All right.

Here about two years ago, we are bringing some material in for a new cigarette, and our need for that material was urgent and we even went to the extent of telling the people in England to ship that material either in the Queen Mary, Queen Elizabeth or the Steamship United States, despite the fact that on west-bound traffic from England, in those three boats a minimum rate applies and it is considerably higher than the tariff rates. We recently had three machines shipped to us from Hamburg, Germany, destined to Mexico. We brought them into New York because the boat was going to call at New York earlier than at Norfolk or any other port.

[fol. 659] Q. Now you are talking to me about shipments that would move via New York regardless of the port differentials, are you not?

A. No, I think what I said there that if rates via all ports were the same, and we were in the market for transportation, we would obviously buy the best we could obtain for a given price.

Q. Now, on your imports of tobacco, what would be the superior service of New York over Hampton Roads?

A. I said in my statement that on tobacco service was not a factor.

Q. How about tips?

A. You mean cigarette tipping material?

Q. Yes.

A. There it is not a factor. But if it did not cost us any more to move it via New York as against the New Orleans, our service would be quicker via New York and I think I said in the statement that that quite possibly would enable us to maintain a smaller inventory.

Q. Well now, let us compare service at Philadelphia.

Is the service at Philadelphia, does it have the same superiority over Hampton Roads as New York does?

A. Are you talking import or export?

Q. Either one?

A. Well, as a matter of fact, we do not use the Port of [fol. 660] Philadelphia, so I cannot say much about it except that the average out-bound boat loads at Philadelphia and then goes to New York.

Q. How about Baltimore, does Baltimore have service advantages compared to—

A. We do not use Baltimore for the same reason that if we are going to use Baltimore on our outbound business, we might just as well use Hampton Roads.

Q. How about the New England Ports, like Boston? Do they have any superiorities over Hampton Roads?

A. None of our traffic moves that way.

Q. You do not know of any superiorities of Boston over Hampton Roads?

A. No.

Q. How about Albany?

A. We have no occasion to move anything through Albany.

Q. Does it have any superior advantages?

A. I do not know, because I have had no experience at the Port of Albany.

Q. Would it make any difference to you if Boston had port equalization with Baltimore?

A. Yes, for this one reason—and that is something the record—it will have to be developed by all interested railroads sitting here listening to this testimony; I could not help but be reminded of the inclinations on the part of [fol. 661] certain labor leaders to call upon the 5th section, because that seems to be the attitude of the northern lines, they did not want to get caught.

Mr. Hanifin: That is responsive.

Mr. Welsh: These lectures are interesting but could we have an answer to the question?

Exam. Boat: Are you about finished?

Mr. Miller: I have one or two more questions.

The Witness: Let me go further—

Mr. Keenan: Could the witness be instructed to answer responsively and confine his answers to the question?

Exam. Boat: I think he should.

Mr. Moerman: I rise in defense of Section 5 of the Interstate Commerce Act. You meant the 5th amendment?

The Witness: The 5th Amendment. I am sorry, yes.

Then I will answer your question the only way I can answer it.

Mr. Keenan: Mr. Examiner, is there a question pending? I want to make sure.

Exam. Boat: I do not know whether he specifically answered the question. Lets go ahead and finish this up.

By Mr. Miller:

Q. Do you have any objection to Boston having port equalization with Baltimore or Hampton Roads?

Why don't you start with yes or no?

A. I cannot answer it yes or no, you know I can't.

[fol. 662] If the railroads serving the Port of Boston—

Mr. Foley: Mr. Examiner, I am going to object to this on the ground that whether he likes it or does not like it, does not matter one particle for the purposes of this case.

Exam. Boat: It does not make any difference.

Mr. Hanifin: Is he objecting to the question?

Mr. Foley: I was objecting to the answer.

Mr. Hanifin: He did not answer.

Mr. Claytor: He did not have a chance to answer the question.

Mr. Foley: I was objecting to his answering the question.

The Witness: Maybe he did not like it.

Exam. Boat: Let's go on, Mr. Miller. Anything else?

By Mr. Miller:

Q. Turning to page 14 of your statement, have you ever made a cost study of these railroad costs you are talking about at the top of the page?

A. How can I? I said, to me the principal question involved in I & S 6615 is whether, from the standpoint of railroad cost to perform the required services on import and export traffic rates to and from Baltimore and Hampton Roads should be or should not—I did not argue that Hampton Roads—

Q. Look, I can read, all I asked you is—

A. That is it. I am expecting the railroads to make their case.

Q. You can simply answer my question. Have you made [fol. 663] a study of railroad costs?

A. No, I read a lot about railroad costs put in.

Q. Have you made a study? You have not, is that right?

A. That is right.

Q. Do you know what costs are as between Baltimore and Hampton Roads and New York?

A. You asked this question.

Q. Do you know of your own personal knowledge?

A. I got a copy of an exhibit here that was prepared, but I don't think it has been accepted yet. Do you want me to refer to that?

Q. Did you make that study?

A. No, it was made by the N and W.

Q. You do not know whether it is true or not, do you?

A. No.

Q. That is all. Those are all the questions I have, Mr. Examiner. I have considerable objections to the exhibit when it is offered.

Mr. Moerman: I have one or two.

Mr. Foley: I have three.

Mr. Welsh: I have one.

Cross examination.

By Mr. Moerman:

Q. Mr. Kneesy, in connection with your emergency shipment on the Queen Mary, was it?

A. Yes.

[fol. 664] Q. What commodity?

A. Well, it was cigarette boxes for Du Maurier cigarettes.

Q. Du Maurier?

A. Yes.

Q. What other cigarettes does your company make?

A. Viceroys.

Mr. Hanifin: That is in his testimony, Mr. Moerman, if you read it.

The Witness: Viceroy, Raleigh, Cools; that is all right, I get a little advertising.

Mr. Hanifin: Good.

Mr. Moerman: That is what my purpose was.

By Mr. Moerman:

Q. Now we will hurry on. Have you shipped or received imported commodities on other vessels than the Queen Mary, like the UNITED STATES, the QUEEN ELIZABETH?

A. Upon occasion.

Q. Upon occasion?

A. That is right. Obviously if there is no rush need.

Q. Yes.

A. We are going to use the route which affords us the lowest amount of freight.

Q. The lowest transportation cost to you?

A. Where service is not the factor.

Q. As in leaf tobacco?

A. That is right.

[fol. 665] Q. Now, sir, let me ask you another question—

A. But not on cigarettes.

Q. Let me ask you this question: Did you pay a higher rate than normal on the QUEEN MARY because you used the QUEEN MARY or because it was an emergency shipment?

A. Westbound from England and this was true about a year ago when this happened, on the QUEEN MARY, the QUEEN ELIZABETH, and either the UNITED STATES or the CONSTITUTION—I cannot remember which one. Oh, the AMERICA, the minimum rate as I remember it was 230 shillings a ton, period. Regardless of what you shipped.

Q. Is it a fact that within your knowledge, the rates on these vessels like the QUEEN MARY are substantially higher than on the regular cargo boats, westbound?

A. I think you said westbound?

Q. Yes.

A. That is my understanding. But I further understand, that is not true eastbound.

Q. Yes, how much higher, double?

A. That would depend entirely on the commodity.

Q. On the commodity?

A. That is right, truthfully, I do not remember. I would say we paid somewhat in excess of 200 per cent of what we would have paid on that particular commodity had we used some other freight line, some other vessel.

[fol. 666] Q. Yes.

A. On some other commodity it might have been 300 per cent or 100 per cent, it would depend on the normal tariff rate.

Q. There is testimony in this case that in general the ocean rates on imported commodities are equalized so far as Hampton Roads, Baltimore, Philadelphia and New York are concerned.

That is not true, is it, with respect to these high-speed vessels like the QUEEN MARY, the QUEEN ELIZABETH, THE AMERICA, and THE CONSTITUTION, right?

A. How many boats did you mention?

Q. Well, the high-speed vessels.

A. There are three.

Q. All right.

A. But that is only westbound.

Q. Yes.

A. I suspect the reason for those higher rates is those boats are primarily passenger boats, mail boats, carry a lot of baggage and are not particularly interested in carrying freight.

Mr. Moerman: Thank you, Mr. Kneesy, indeed. That is all.

Exam. Boat: Can we progress this rapidly? Are we through?

Mr. Welsh: I have just one or two questions. I don't [fol. 667] think it will take any time.

Exam. Boat: We want to take care of some other matters here. I hope we can finish this up.

Cross examination.

By Mr. Welsh:

Q. Mr. Kneesy, with regard to this shipment, that moved on the QUEEN MARY?

A. Yes, sir.

Q. Do you mind telling us what the weight of that shipment was?

A. It was very small.

Q. Very small?

A. Very small.

Q. But you don't remember the weight of it?

A. No.

Q. Just it was a very small shipment?

A. Very small.

Q. One other thing. As I recall your testimony, you said you saw copies of the letters of credit that your company sold export material on?

A. Excuse me. My department gets copies of the.

Q. I see. Do you see those copies of them?

A. No, I spend most—

Q. You are not familiar with the terms your company sells those cigarettes on, are you?

A. What do you mean, in what respect?

[fol. 668] Q. How are they sold, FAS, CIF?

A. F.o.b. Port of embarkation.

Q. F.o.b. port of embarkation?

A. Yes, or FAS, U.S. port.

Q. FAS the name of the vessel, right?

A. No, FAS, U.S. port.

Q. FAS U.S. port?

A. Yes.

Q. Now, do you know whether or not the shipment moves beyond the Port on request billing of the purchaser of the goods, or do you control the routing beyond the port?

A. You don't want a yes or no to that now, do you?

Q. Well, if you have a regular policy, I will take yes.

A. I will have to elaborate.

Some people specify the vessel to which they want the cigarettes delivered. Upon occasion, on a Monday morn-

ing, we will get—that is, the export sales department will get from either the customer or our New York sales office, an order for X-number of cigarettes to be delivered say on Wednesday or Thursday to a specific pier in New York for a specific vessel.

Sometimes we are allowed, as a matter of fact, either my office or our freight forwarder in New York, are allowed to pick the vessel, but we jolly well better pick the vessel which will arrive there first. Now, for example, if I may [fol. 669] refer to this I have a letter here from the United Kingdom, traffic manager, British American Tobacco, in London. We have been informed by our friends in Kuwait that the vessels of the Concordia-Line consistently make Kuwait the last port of call in the Persian Gulf. For your guidance, I enclose an extract of some notes received, and he goes on asking us to use some other line to avoid that delay.

Now, I cite that as example of how important the service consideration is on export cigarettes.

Here last week we had received an order from the Columbia Distributor, and when there was some question of our ability to clear X quantity of those cigarettes in a GRACE line sailing from New York and I am pretty sure it was last Friday, he asked that we take the equivalent of one vanload and ship it to Miami so that it could be flown to Columbia. We did not do that because, when he found out that we were going to be able to get those cigarettes in —ready in time for the Grace boatline on Friday, that was satisfactory.

I cite that to demonstrate how important the service feature is on cigarettes.

Mr. Hanifin: For clarification, sir, where was the Grace Line boat?

The Witness: New York.

Mr. Welsh: I beg pardon, I did not hear what counsel [fol. 670] interjected.

Mr. Hanifin: I said, for clarification where was the Grace Line Boat, and he responded, New York.

By Mr. Welsh:

Q. May I ask you, do you know whether the controlled routings as recommended by your customer exceed the free routings which give you the right to select the routes yourself?

Now, if you do not know, you do not have to answer.

A. As far as the export sales department is concerned, the basic requirement is that we get our merchandise to destination as quickly as possible.

Now if you will look at my exhibit, you will note that we can and did clear some merchandise through Hampton Roads.

Mr. Foley: Mr. Examiner, I object to this. This is not responsive at all to the inquiry.

Mr. Welsh: No.

Mr. Foley: Which was, whether he does one or the other more frequently.

The Witness: Wherever the export sales department will allow us to clear something through Hampton Roads, we obviously will do it. That is where the best—

By Mr. Welsh:

Q. Can you tell me the relationship, the quantities? Do they permit you to do it more frequently than they do not?

A. They do not.

[fol. 671] Q. They do not?

A. No.

Q. Now, one more question: Are your letters of credit payable against the documents, and if so, what document?

A. On board bill of lading, insurance certificate, and invoice.

Q. Of course, if your terms, as I think you said, your most frequent terms were FAS port?

A. That is right.

Q. Of course you would not have to submit a bill of lading?

A. Yes, we do.

Q. You do it as a service?

A. Yes.

Mr. Welsh: That is all.
Exam. Boat: Anything else?
Mr. Claytor: No redirect.

OFFERS IN EVIDENCE

Exam. Boat: Do you tender the exhibit?
Mr. Foley: Mr. Examiner, I have a couple of objections.
Mr. Claytor: May I tender the exhibit first, sir?
I offer in evidence exhibit 55—
Exam. Boat: Is there objection?
Mr. Foley: Yes, on page 13, the second full paragraph in the first sentence of the next paragraph is nothing but argument. There is nothing at all there. And there are no facts at all. He has become a transportation economist instead of a shipper.
[fol. 672] On page 14 the first paragraph is all argument, and the first full paragraph on page 12 is argument, and nothing else, no facts.
Mr. Claytor: Mr. Examiner—
Mr. Miller: May I state my objections first to save time, you can answer them both at the same time.
Mr. Miller: I would like to object beginning at the last paragraph on page 13, all of page 14, and all of page 15, because they are just sheer argument.
I would like to object to the material beginning in the first full paragraph on page 3—
Mr. Hanifin: Page what, sir?
Mr. Miller: Page 3, and extending through to the end of the second paragraph on page 8, because that deals with export traffic which moves from Petersburg, by motor truck, and is not involved in this proceeding, and I would like to object to the exhibit No. 1 for the same reason.
Exam. Boat: The objections will be noted, and the exhibit is received in evidence.

(Exhibit No. 55, Witness Kneesy, in support of Protestants is received in evidence.)

Exam. Boat: Now we have a request we receive some of the statements at this time. I believe Mr. Price has one statement he wants to me.

The Witness is excused.

[fol. 673] (Witness excused.)

Mr. Price: I have a statement of Mr. Kraemer, and five exhibits, verified statement of C. Nelson Bean.

Exam. Boat: Yes.

Mr. Price: And two exhibits.

Exam. Boat: Very well.

Mr. Price: Could we have a number on those?

Exam. Boat: Mr. Bean's will be 56 and Mr. Kraemer's No. 57.

Mr. Price: There has been no request for cross examination on either of them and therefore, I offer them in evidence.

(Exhibit No. 56, Witness Bean, in Support of Protestants is marked for identification.)

(Exhibit No. 57, Witness Kraemer in support of Protestants in marked for identification.)

Exam. Boat: They will be received in evidence as exhibits 56 and 57.

(Exhibits 56 and 57 were received in evidence.)

Mr. Price: Thank you.

Exam. Boat: There are two more, now, let's get them in.

Mr. Meyer: I would like to offer in evidence the verified statement of Mr. J. Schmuck Jr., assistant freight traffic manager of the Virginian Railway Co.

[fol. 674] The statement has been circulated and cross-examination has not been requested.

Exam. Boat: That will be No. 58 for identification.

(Exhibit No. 58, Witness Schmuck, Jr., in support of Protestants is marked for identification.)

Mr. Pinsky: I am appearing on behalf of the City of Philadelphia. I would like to offer the verified statement of Mayor Richardson Dilworth, which has been circulated according to the rules with no request for cross-examination being made.

Exam. Boat: That will be identified as 59.

(Exhibit 59, witness Dilworth in support of Protestants is marked for identification.)

Exam. Boat: There being no objection, no request for cross-examination, those exhibits are received as 58 and 59.

(Exhibits 58 and 59 were received into evidence.)

Exam. Boat: Off the record.

(Discussion was off the record.)

Exam. Boat: On the record. We will adjourn until 9:30 tomorrow morning.

(At 5 p.m. the hearing was recessed until February 21, 1958 at 9:30 a.m.)

Secretary's Certificate to transcript (omitted in printing).

[fol. 675]

BEFORE THE INTERSTATE COMMERCE COMMISSION

I&S Docket No. 6615

FSA Docket No. 32204

[Title omitted]

Friday, February 21, 1958

Met, pursuant to adjournment, at 9:30 a.m.

Before: Marion L. Boat, Examiner.

APPEARANCES:

(As heretofore noted.)

[fol. 677]

PROCEEDINGS

Exam. Boat: Come to order please, gentlemen.

K. G. CROWL was sworn and testified as follows:

Direct examination.

By Mr. Bongartz:

Q. Mr. Crowl, I show you a statement captioned this proceeding, of 17 pages, with an additional verification page which is titled "Testimony of Kenneth G. Crowl," and ask you whether that is your testimony in this proceeding?

A. It is.

Q. You are the person who took the verification of this statement?

A. Yes, sir.

Q. And referred to in that statement is a series of exhibits?

A. Yes, sir.

Mr. Bongartz: May this statement, Mr. Examiner, and the exhibits referred to therein, all of which have been previously distributed, be marked for identification?

Exam. Boat: It will be identified as Exhibit 60.

(Protestant's Exhibit No. 60, Witness Crowl, was marked for identification.)

By Mr. Bongartz:

Q. Mr. Crowl, there are some corrections you wish to make at this time, both in your Exhibit 60 and in the exhibits referred to?

A. Yes, sir.

[fol. 678] In the testimony on page 5, the second full paragraph, as to the quote from Mr. Blanchard, I should like to read the quote because there are a couple of slight differences, and I am quoting, "We were not called on by any mercantile principal or usage to carry that extra difference for nothing. And there are no 272 miles of railroad that can be built for nothing, can be worked for nothing, that should be given to the public for nothing, any more than that the owner of the warehouse opposite this building

should go to Baltimore, find out what the rent for a similar warehouse is, and fix his price upon the rent basis at Baltimore."

Q. That material is from Mr. Blanchard's report, is that right?

A. That is from Mr. Blanchard's testimony before the Special Committee on Railroads, appointed under Resolution of the Assembly of the State of New York to investigate alleged abuses in the management of railroads chartered by the State of New York, in hearings in 1879.

Q. What other corrections do you have to make?

A. I have distributed—I suppose that everyone has a copy of an erratum consisting of 3 pages.

Q. I don't believe the Examiner has one, Mr. Crowl.

(Copy handed to Examiner)

Exam. Boat: Thank you.

The Witness: This applies to my Exhibit Z-5, consisting of 42 pages, and in addition we have found a couple [fol. 679] more errors in that exhibit which, for the sake of accuracy, should be corrected.

The first correction is on page 4. Under Class 35, proposed cents per car-mile—

Mr. Colgren: Is this in the first table?

Exam. Boat: Will you locate that?

The Witness: That is on page 4 of my exhibit Z-5.

By Mr. Bongartz:

Q. The right-hand column, isn't it, Mr. Crowl?

A. There are two columns, under Class 35, on page 4. The second column is involved and the fifth column.

Exam. Boat: There are six columns under Class 35, are there not?

The Witness: Yes, sir.

Exam. Boat: Now, which column?

The Witness: The second column and fifth column are involved.

Exam. Boat: Yes.

The Witness: The first correction under Proposed Cents

per Car-Mile, the sixth figure down shows 44 cents. That should be 43.

The eighth figure shows presently 44 cents. That should be 43.

Now, going to the fifth column, under Proposed Mills per Ton-Mile, in Class 35, the sixth figure shows 24.4, which [fol. 680] should be 23.9. The eighth figure shows 24.4, which should be 23.9.

By Mr. Bongartz:

Q. Wait a minute, Mr. Crowl.

The fifth figure should be changed, shouldn't it, too, the 20.2?

A. The 20.2 has been changed in the erratum on Sheet 1.

Q. Oh, has it?

A. From 20.2 to 25.1.

On the same page, page 4 of Z-5, under Class 13, in the first column, Present Cents per Car-Mile, the ninth figure reads 30 cents. It should read 28 cents.

In the fourth column under Class 13, Present Mills per Ton-Mile, the ninth figure now reads 10; it should read 9.3.

Still on page 4 of my Exhibit Z-5, under Class 27½, under Present Cents per Car-Mile, the average should be 37.8.

Q. Instead of 34.4?

A. As it was in the original, and a correction may be shown as 36.2, but the right calculation is 37.8.

Page 26 of the same exhibit—

Q. Is your erratum sheet, does that take care of the other correction, on the last line?

A. On page 4? Yes, sir.

Q. All-right.

A. Page 26, Exhibit Z-5, under Class 20, under Proposed Mills per Ton-Mile, the eighth figure now reads 17.6 and should be 16.7.

[fol. 681] Exam. Boat: Proposed Mills Per Ton-Mile?

The Witness: Yes, sir, Proposed Mills Per Ton-Mile. The last is page 29.

Under Class 35, the sixth column, Docket 28300, Mills Per Ton-Mile, the sixth figure down, instead of 24.8 should be 30.2.

In my Exhibit Z-8, consisting of 11 pages, on the first page, from Chicago to Philadelphia, under Route C-6, the sixth route down, Chicago to Philadelphia—

Exam. Boat: I beg your pardon, which page, please?
The Witness: Page 1, sir.
Exam. Boat: I have the wrong exhibit.
The Witness: Z-8-B.
Exam. Boat: I had Z-8-A.
The Witness: It is the second one.
Exam. Boat: Oh. Thank you. Now, I am ready.
The Witness: Route CS-6, 792 miles should be 882 miles.
Mr. Macleay: How much?
The Witness: 882.

And the average Chicago to Philadelphia now showing 970 should show 977.

For the sake of the record, on page 2 this exhibit should show corrections already from Dubuque, Iowa to Philadelphia, Route CGW-4 should have 826 miles scratched out and 999 inserted.

[fol. 682] By Mr. Bongartz:

Q. I think those corrections were made before the exhibits were distributed, Mr. Crowl.

A. O. K., sir.

My Exhibit Y-1, page 12, 42 pages.

Under Class 50—

Mr. Costello: What page?
The Witness: On page 12.

Under Class 50, Present Mills Per Ton-Mile, the fourth figure in that column, instead of 44.4 should be 34.5.

Mr. Welsh: May I ask your indulgence for just one minute, Mr. Examiner?

Will you tell me what page that was, I couldn't find it.
The Witness: Page 12.
Exam. Boat: Page 12, Class 50. Under Mills Per Ton-Mile.
Mr. Welsh: Class 50?
Exam. Boat: Class 50, under Mills Per Ton-Mile.
Mr. Welsh: Present or Proposed?

The Witness: Present.

Mr. Welsh: What was the correction?

The Witness: Instead of 44.4, which is the fourth figure down, it should be 34.5.

Page 16 of Exhibit Y-1, under Class 100, Present Cents Per Car-Mile, the third figure down now is 29.2; it should be 39.2.

[fol. 683] The last in this exhibit is page 18. Under Class 35, Cents Per Car-Mile, Docket 28300, third column, average at the bottom of that column is now 57.9. It should be 67.9.

The last corrections are my Exhibit X-0, consisting of 43 pages.

The first is on page 7. Under Route D-4, Proposed Import Mills Per Ton-Mile—

Exam. Boat: I don't seem to find that.

The Witness: It is under the heading of Indianapolis, on the right side of the sheet.

Exam. Boat: Yes, I see.

The Witness: And in the column "Proposed Import Mills Per Ton-Mile," across from the Route D-4, now shows 26.9. It should be 19.3.

On page 9, under Chicago, the Present Import Mills Per Ton-Mile, to the right of the page across from Route BM-2, from Boston, instead of 13.1 should be 14.3 mills.

The next is on page 16. Proposed Import Mills Per Ton-Mile under Chicago to the left of the page, across from Route P-1 from New York, now shows 20.7. It should be 20.4.

Exam. Boat: Off the record.

(Discussion off the record.)

Exam. Boat: On the record.

The Witness: Page 27.

On the series to Cincinnati from Boston, in the line [fol. 684] Average Excluding Short Line, with the miles shown as 931, Present Import Cents Per Car-Mile now 42.2 should be 44.5.

Going to the right two columns, to present domestic cents per car-mile, now shown as 42.2, should be 44.5.

Going to the right two more columns, still under the average, excluding short-line, presently 15.1 should be 15.9.

Again going two columns to the right, 15.1 should be 15.9.

Taking right under there, right under the last average from Boston to Cincinnati, the first line from New York to Cincinnati, where the short-line miles are shown as 724, under the present import cents per car-mile, instead of 43.4 it should be 57.2, in the first column.

Then, go over two columns, to 43.4, which should be 57.2.

Going over two more columns on the present import mills per ton-mile, instead of 15.5, it should be 20.4.

Two columns again to the right, where it is 15.5, it should be 20.4.

The next one is on page 30.

On the right-hand side of the page, from Baltimore to Cincinnati, for Route P-1, miles 646, the present import cents per car-mile shows 32.4. It should be 47.8.

Going to the right four more columns to the Present import mills per ton-mile, it shows 21.6. That should be 31.9.

Page 37. Again to the right of the page, from Philadelphia to Columbus, Ohio, Proposed import mills per ton-[fol. 685] mile for Route R-3, which presently shows 27.3, should be 23.7.

And the last one is page 40. On the left-hand side of the page from New York to Chicago, the third column across from the Average—Excluding short-line miles 971, the second column beyond that to the right, Proposed import cents per car-mile now shows 43.9. That should be 41.4.

Going four columns to the right of that, Proposed import mills per ton-mile, instead of 17.6 should be 16.6.

Those are all the corrections I have, sir.

Mr. Bongartz: Those corrections, Mr. Examiner, have been made on the originals which I now hand to the reporter.

The witness is tendered for cross-examination.

Cross examination.

By Mr. Clark:

Q. Mr. Crowl, in the quotation you take from Mr. Blanchard's testimony, it is substantially the same as that Mr. Mollman considered in his testimony, is it not?

A. Yes, sir.

Q. Do you interpret that quotation as meaning that he is talking about domestic rates or import-export?

A. I read that quotation in the light that he was very much concerned about having rates established that were compensatory; and, secondly, that he is also concerned about a stable rate structure.

Q. But he wasn't referring to export-import rates, was he?

A. At what time?

[fol. 686] Q. In the instance you quoted.

A. I am sure he was.

Q. How do you square that with the sentence immediately preceding the sentence you quote?

A. I heard the testimony yesterday, and as I recollect he was talking about both kinds of traffic.

Q. Let me read that sentence immediately preceding to you.

As I understand it he said, in the sentence immediately preceding, "I do not think the New York merchant or citizen could complain of the rate upon flour that comes here to be made into bread for his household."

So far, does that sound like an export rate?

A. You didn't read all of his answer. Mr. Mollman read, I think, all of it yesterday into the record.

Q. Going that far, does that sound like an export rate?

A. That is half of it, that is right.

Q. I will get to the rest of it.

A. That is half of it.

Q. Do you agree he is not talking about an export rate there?

A. He is still talking about the same rate. As to that application, obviously, that is a domestic rate.

Q. Yes.

Then, he goes on: "If he paid 10 cents a barrel more for it than is paid by the citizen of Baltimore who did the same thing for the reason that we carried that property from the [fol. 687] local merchant's point, say 272 miles, in the illustration used by Mr. Garrett for only 10 cents difference, and flour is sold here for more than that much higher than in Baltimore for local retail use."

Do the words "for local retail use" indicate an export movement?

A. As to that section of his answer, it reads "to domestic," but he also talked about export rates in the same answer.

Q. You think that that is not clear that he is talking about domestic rates?

A. He is talking about a compensatory rate to New York that will apply to the traffic he was talking about in his complete answer.

Q. Did you mean to indicate in this quotation that Mr. Blanchard was advocating a differentially higher rate through the Port of New York than through the other seaboard ports?

A. He was advocating a compensatory rate on any traffic that moved to New York.

Q. Was he advocating a differentially higher rate?

A. He was actually justifying—

Q. You can answer my question.

A. (continuing) —a differentially higher rate that was then supposed to be in effect.

Q. How much of Mr. Blanchard's testimony did you read?

A. I heard what was read yesterday.

[fol. 688] Q. That wasn't the question.

When you took this quotation from Mr. Blanchard's testimony, I assume you read through a great part of it, did you not?

A. This appeared in Volume 3, Page 3175. I frankly did not read the whole investigation. But this, to me, regardless of the context, simply points out that he is pleading for compensatory rates for his railroad.

Q. Can you tell me approximately how long Mr. Blanchard's testimony was before the New York Legislative Committee?

A. No, sir, I can't.

Q. It was quite extensive, wasn't it?

A. It could have been.

Q. Wasn't it in fact several hundred pages?

A. I do not know.

Q. You have a copy of his testimony there, do you not?

A. I do not.

Q. You wouldn't dispute the fact that it was several hundred pages? In fact, he was on the stand for days before that Legislative body, was he not?

A. If you say so, I will accept it.

Q. I would like to read a question and answer, a little subsequent to the insertion or the quotation you took from his testimony.

This is the question asked Mr. Blanchard:

"Question: But suppose the rail rate from Liverpool to [fol. 689] Chicago, and from Chicago to Liverpool to be 2 cents a hundred less by reason of the increased harbor facilities of New York, what would then be the policy of your railway?"

Mr. Blanchard's answer was this:

"Answer: Equal rates via all the seaboard cities to foreign ports."

Isn't that about as clear a statement as you could expect from anyone as to what his position was on the level of the rates through the eastern seaboard ports?

A. In the light of what you read, taken with what I have, indicates to him that as long as the rate is compensatory, that is what he wants.

Q. You don't mean to indicate, then, in this quotation you took from Mr. Blanchard's testimony that he was advocating a differentially higher rate at New York than through the other seaboard ports?

Mr. Bongartz: I think the witness has already answered that, when he said Mr. Blanchard was before this committee defending a differential set-up.

By Mr. Clark:

Q. As a matter of fact, throughout Mr. Blanchard's testimony he repeatedly took the position that the rates should be equal—the export-import rates should be equal through all the seaboard ports; isn't that a fact?

A. I told you, sir, I didn't read the hundreds of pages that you say he gave testimony on.

[fol. 690] Q. And isn't it a fact you referred to Mr. Vanderbilt's testimony? Isn't it a fact he was an equally ardent advocate for equality of rates through the eastern seaboard ports?

A. He was certainly an advocate of compensatory rates to the New York Central.

Q. I didn't ask you that question.

Mr. Clark: Will you read the question?

(Question read.)

By Mr. Clark:

Q. How much of Mr. Vanderbilt's testimony did you read?

A. I have the question asked him: "And so there is a reciprocity on the part of the community with the railroads?"

The answer of which is on page 5 of my testimony, was: "I think the railroads have done their full share"—

Mr. Clark: Just a moment.

That is not responsive to my question, Mr. Examiner. Will you repeat the question?

(Question read.)

The Witness: I read the question and the answer, part of which I quoted.

By Mr. Clark:

Q. And that is all?

A. That is all of that, yes, sir.

Q. Isn't it a fact, Mr. Vanderbilt had extensive testimony before that committee?

A. If you say so, I will accept it.

[fol. 691] Q. How did it happen that you only read this paragraph or two?

A. Because—

Q. How do you explain that paragraph?

A. Sir?

Q. How did you find that paragraph if you didn't read any more than two paragraphs?

A. It just emerged.

(Laughter)

Mr. Clark: That is all on that subject.

By Mr. Clark:

Q. Will you turn to page 10 of your testimony?

Beginning on page 10 and running through the next two or three pages there, you enumerate a number of examples which you say indicates the Port of New York's continuing power to attract import-export traffic at the existing differential relationships.

A. Yes, sir.

Q. Don't all of those examples you cite involve transit arrangements?

A. Some are transit arrangements, some are routing arrangements, some are storage.

Q. They all involve a transit?

A. They all involve a through rate between New York and differential territory.

Q. Some sort of a transit arrangement is involved in [fol. 692] practically every one of those cases, is that not right?

A. That is right, and operates in relation to the through rate.

Q. Don't Philadelphia and Baltimore and Norfolk also have transit arrangements concerning import and export traffic?

A. There are a few—

Q. Similar to these?

A. Nothing in relation to involving the transit privilege and other arrangements in New York Harbor.

Q. Have you made any study to compare the volumes?

A. I see the proposals going through to change established transit arrangements, rates and other things.

Q. You made no study?

A. (Continuing) —as to parceling out what is in the tariff, no, but as to the use made of the arrangements in the tariff, I do know that the arrangements in effect at New York are used to a great extent on a great variety of things.

Yes, we have them in the tariff for Philadelphia and Baltimore, but they are practically meaningless.

Q. You made no study to determine what the volumes were between the several ports, did you?

A. I have looked at—

Q. Will you answer my question?

A. Yes, I was going to answer you.

I have looked at thousands of import and export bills, [fol. 693] and I do not recollect any comparison whatsoever—if any tonnage—that Philadelphia and Baltimore had under the transit arrangement we had published for those ports.

Q. You made no surveys?

A. I didn't chop it down like you do when you play bridge.

Q. Will you turn to page 13 of your testimony?

On page 13 and subsequent pages there—

A. Yes, sir.

Q. (Continuing) —you refer to motor carrier class rates published on the domestic rail Docket 28300 level between North Atlantic ports and differential territory.

A. That is right.

Q. What traffic moves on those rates?

A. Whatever traffic is properly rated moving by truck under their class rate basis.

Q. Those rates would be higher than the railroads, wouldn't they?

A. Are you talking as to the time the comparison was made? They were identical to the rail rates. The rail 28300 rates.

Q. I mean the rail rates applying to specific commodities, export and import commodities.

A. They could be if the truck did not also have a commodity rate to match the rail commodity rate.

Q. Is it your testimony that traffic is moving on these motor carrier class rates on the 28300 level—import and [fol. 694] export traffic?

A. There are not any motor carrier import and export class rates between differential territory and the ports.

Q. That is true.

A. So any motor truck traffic offered which is not covered

by any other basis for assessing charges other than the class rates, these would apply.

Q. I understand that.

But what traffic is moving?

A. I work for a railroad, not a trucking company, sir.

Q. Well, the inference from your testimony is there is traffic moving on those rates. I asked you what traffic that is.

A. I would not be privy to know what traffic is moving on those rates.

Q. For all you know, there is no traffic moving on those rates?

A. I know they are published and in effect.

Q. There are a lot of rates published on which no movement exists.

A. That is a matter of knowledge as to where they might apply on what.

Q. You made no study or survey to show what traffic did move under these motor carrier class rates?

Mr. Bongartz: The witness answered, previously, Mr. Examiner.

[fol. 695] By Mr. Clark:

Q. Mr. Crowl, how do the facilities for handling import and export traffic at Philadelphia compare with those facilities at Baltimore?

A. I made no study on facilities.

Q. Do you believe your facilities at Philadelphia are as good as those at Baltimore?

Mr. Bongartz: He just answered he made no study.

By Mr. Clark:

Q. I am asking his opinion.

Your railroad serves Baltimore as well as Philadelphia, doesn't it?

A. Yes, sir.

Mr. Bongartz: The witness on the stand yesterday, Mr. Examiner, was the man with knowledge of such conditions.

I think that question should have been developed through Mr. Clark.

By Mr. Clark:

Q. Are your facilities as modern and efficient?

A. I can't answer, sir. We have a good railroad, but what makes it up, I have not studied this matter.

Q. Are your efforts to solicit import and export traffic to Philadelphia, to and from differential territory, as good as those at Baltimore?

A. Our efforts?

Q. Yes.

Mr. Bongartz: Could I have that question read, please?

Mr. Clark: I will rephrase the question.

[fol. 696] By Mr. Clark:

Q. Are the efforts to solicit such traffic through Philadelphia, equally as good as the efforts made on the part of Baltimore—

Mr. Bongartz: Whose efforts are you talking about?

Mr. Clark: The railroad efforts—the Pennsylvania Railroad.

The Witness: If I understand what your question is, you are asking whether our railroad solicits freight for any specific port as against any other port.

We cannot—

By Mr. Clark:

Q. I asked you if you tried as hard, or if your efforts were equally as good at Philadelphia as they are at Baltimore.

A. Our efforts, we hope, are equally good every place, but—

Q. That is an answer.

A. You must remember the shipper routes the freight and puts on his bill of lading where he wants it to go.

Q. But your salesmen attempt to persuade him to route Pennsylvania, don't they?

A. No, sir, our unrouted traffic is very, very light—minus zero, probably.

Q. Now, the rates on import and export traffic between Philadelphia and differential territory are generally one cent higher than the rates between Baltimore and differential territory, are they not?

[fol. 697] A. That is the normal differential.

Q. Haven't you found that this differentially higher rate at Philadelphia handicaps Philadelphia in its efforts to attract import and export traffic to and from differential territory in competition with Baltimore?

A. That brings to mind our loss of business at Philadelphia to New York.

Q. I didn't ask you that.

(Laughter)

Mr. Clark: Mr. Examiner, that is not responsive to my question.

Exam. Boat: No, I think he confined the question to Baltimore.

The Witness: I can't identify them.

By Mr. Clark:

Q. You didn't know.

Is it your testimony that the one-cent differential does not handicap?

Mr. Bongartz: He didn't say that. He said he couldn't identify it.

By Mr. Clark:

Q. I don't understand that answer.

A. As I understand your question, it was, didn't the one-cent differential at Philadelphia over Baltimore drive business out of Philadelphia to Baltimore?

Q. No. My question was, did that one-cent differential handicap you in your efforts to attract tonnage, import and [fol. 698] export tonnage, from differential territory in competition with Baltimore?

A. We try to attract tonnage at every port we serve.
Q. Yes.

Mr. Foley: This is not responsive, Mr. Examiner.

Mr. Keenan: I move that answer be stricken, Mr. Examiner, and the witness be instructed to answer.

Exam. Boat: Yes.

Answer directly.

Mr. Macleay: We can't hear counsel over here. May we hear that last question? We didn't hear a word of it.

Mr. Foley: Why doesn't the reporter read it?

By Mr. Clark:

Q. Does the one-cent differential handicap you at Philadelphia in competition with Baltimore?

Mr. Bongartz: Let's get the question clarified.

"Handicap," you are referring, I assume, to the Pennsylvania Railroad. Is that what you are referring to, Mr. Clark?

Mr. Clark: I will take that.

Mr. Bongartz: Do you understand the question, Mr. Crowl?

The Witness: If I understand the question correctly, what he is saying is, does the normal differential operating at Philadelphia hamper our efforts to get business at Philadelphia in competition with Baltimore. Is that the sense of the question?

Mr. Bongartz: Is that your question, Mr. Clark?

[fol. 699] Mr. Clark: Will you read that answer?

Mr. Keenan: That is fine.

The Witness: We operate at both ports, and must, and accept traffic that is offered at each port.

Mr. Foley: This is still not responsive.

Mr. Bongartz: I submit, Mr. Examiner, in this line of questioning, the witness has brought out before that the shipper does the routing, that the Pennsylvania serves all these ports and takes what it gets from the shippers.

I think beyond that, Mr. Crowl can't give any further answer.

Exam. Boat: I think he can.

Mr. Moerman: Of course, he can. He doesn't want to.

Mr. Bongartz: I ask that be stricken. I don't know who said it.

Mr. Moerman: I said it.

Mr. Bongartz: I ask it be stricken.

Mr. Welsh: I concur.

Mr. Keenan: I concur in that.

Exam. Boat: Let's confine our statements here to questions and answers.

Mr. Clark: I didn't hear you, Mr. Examiner.

Exam. Boat: We will confine our statements to questions and answers.

Can you answer more directly, Mr. Witness?

The Witness: I will answer on the basis of my experience [fol. 700] in soliciting freight in differential territory to and from the ports.

That goes as far west as Milwaukee and as far east as Pittsburgh, and in soliciting freight the shipper told us what port he was coming into and what port he was shipping to, and he named the port, and he named New York more times than other ports.

Mr. Clark: New York wasn't even in this question, Mr. Examiner. We are talking about Philadelphia and Baltimore.

Mr. Foley: Mr. Examiner, he hasn't yet said he is handicapped at getting the freight at Pennsylvania.

Mr. Marbury: Mr. Examiner, the question is an unfair question. Handicapped assumes he is trying to get it at the one port at the expense of the other.

What the witness has been telling you is he does not. Therefore "handicap" is a trick question.

Mr. Bongartz: He testified, Mr. Examiner, the Pennsylvania tries to get business, and then he has testified in trying to get business it routes the business the shipper gives him according to the shipper's instructions.

By Mr. Clark:

Q. Mr. Crowl, the Pennsylvania has a large sales force, doesn't it?

A. Yes, sir.

Q. Doesn't it attempt to persuade shippers to route via the Pennsylvania?

[fol. 701] A. It persuades them to route via the Pennsylvania via any port they wish to move through at compensatory rates.

Q. Do you have any difficulty persuading them to route traffic from differential territory, import and export traffic, to Philadelphia, as compared to Baltimore?

Mr. Macleay: Mr. Examiner, the witness has made it perfectly clear he doesn't "try" to solicit for Philadelphia as against Baltimore.

Exam. Boat: His company is in business to attract traffic.

Mr. Macleay: That is right, but he serves all three of these ports, Mr. Examiner. And he has said so repeatedly.

Mr. Clark: I asked a question, and it seems to me he has not answered it yet. I tried four or five different ways to solicit the answer.

Mr. Bongartz: I submit he has answered.

Mr. Clark: What is the answer?

The Witness: We have something like 85 field sales offices, including Boston, New York, Philadelphia, Baltimore, and Norfolk.

We do not and cannot tell a shipper where he wants to ship his freight. He knows that. He knows what port he is using. What we do is try to solicit the freight for the Pennsylvania Railroad.

By Mr. Clark:

Q. Is that your answer, Mr. Crowl?

A. That is the fact.

[fol. 702] Q. That is your answer, then?

I still submit it isn't responsive.

Mr. Macleay: We still can't hear counsel.

Mr. Foley: He doesn't tell whether he is handicapped to Philadelphia, which he was asked.

The Witness: We are looking for freight to haul, total volume. We are not trying to say—

By Mr. Clark:

Q. Every railroad is looking for freight.

A. That is right.

Q. But that wasn't the question I asked you, Mr. Crowl.

A. I can't read people's minds as to why they might use New York or other ports.

Q. Well, let me cite some tonnage figures to you and see whether that might help.

Isn't it a fact that during the period August 1, 1955 to July 31, 1956, Baltimore handled 4,948,000 tons of export-import traffic from differential territory, and during the same period Philadelphia handled only 1,039,000 tons?

Those come from Mr. Mollman's exhibits.

That is a proportion of about 5 to 1 in favor of Baltimore.

Would that indicate to you that Philadelphia had difficulty in attracting export-import traffic from differential territory to Philadelphia, as compared to Baltimore?

Mr. Hanifin: Mr. Examiner, it seems to me that question is objectionable, because it is on the assumption that [fol. 703] the competition at Philadelphia is Baltimore. Until it is established that the basic competition at Philadelphia is with Baltimore, rather than New York, I think the question is entirely a hypothetical question and an unfair question.

Certainly the position of the Pocahontas Lines is that our basic competition is with New York. I don't think there is anything established in this record that the basic competition of the out-ports is within themselves, but rather it is with New York.

I think this question is being pursued on an assumption which is wholly unwarranted.

I object to the question.

Mr. Clark: Mr. Examiner, the question is perfectly fair.

By Mr. Clark:

Q. Are you in competition with Baltimore, Mr. Crowl?—Isn't Philadelphia in competition with Baltimore?

Mr. Bongartz: At one minute you are talking about the Pennsylvania Railroad, now you are talking about the City of Philadelphia, as I understand it, versus Baltimore.

This witness is a Pennsylvania Railroad witness, and I suggest the questions put to him be confined to his capacity as such.

By Mr. Clark:

Q. Mr. Crowl, you are dealing with the figures that Mr. Mollman showed in his exhibit, are you not?

A. I know he put figures in.

[fol. 704] Q. How do you account for this difference in the total export-import traffic?

A. Those figures simply represent the tonnage the railroads haul to and from the named ports.

Mr. Brandes: I move to strike out the answer, Mr. Examiner, as not being responsive.

Exam. Boat: I think in a sense it is responsive.

Overruled.

Mr. Clark: Apparently, I can't get a responsive answer to that question, so I won't pursue it any further.

Mr. Bongartz: The Examiner ruled against you on it.

By Mr. Clark:

Q. You didn't take the position that the differentially higher rate handicapped Philadelphia as against Baltimore in the iron ore case, did you?

A. I know nothing about the iron ore case, sir.

Q. Isn't it a fact that that differential handicapped Philadelphia as to iron ore?

Mr. Bongartz: I think the witness just answered his knowledge regarding that case.

Mr. Keenan: Do we have an answer?

Mr. Clark: He said he didn't know anything about it.

Mr. Keenan: Did he?

By Mr. Clark:

Q. The Pennsylvania serves Baltimore and New York and Norfolk, as well as Philadelphia, doesn't it?

A. Yes, sir.

[fol. 705] Q. Where the Pennsylvania is able to influence the routing of traffic to or from differential territory, does the Pennsylvania favor Philadelphia over New York?

A. I think I have already said that the shipper routes his traffic. He knows where he wants it to go. He sends it there.

Exam. Boat: I think his question assumed that the shipper did not route this particular traffic.

Is that right, Mr. Clark?

Mr. Clark: Yes. There is certain traffic certainly that the railroads try to influence the routing of. They have their salesmen out trying to persuade the shippers to route over their particular railroad.

By Mr. Clark:

Q. Mr. Crowl, you are connected—what are you, Assistant Director of the Sales?

A. Freight Rates.

Q. But aren't you—

A. We have no solicitation jurisdiction over the salesmen, but I have been one.

Q. In the first paragraph of your testimony, you say, "I am Assistant Manager, Freight Rates, Freight Sales, and Service Department."

A. That is right.

The Freight Rates Department is a division of the Freight Sales and Services Department, the over-all what [fol. 706] used to be our Traffic Department.

Q. And you have salesmen working through the area, attempting to "sell" Pennsylvania routing, do you not?

A. Under my jurisdiction. We work with salesmen. I will say again that the shipper knows what port he wants to go from or to, and our job is when he has decided that to get him to use our railroad from or to what port he chooses.

Q. Do you mean to say that you do not try to persuade him to use the Port of Philadelphia, rather than the Port of New York on export-import traffic to and from differential territory?

A. He knows where he wants to go.

Q. That wasn't the question. Will you please answer the question?

Exam. Boat: Before he states what he wants to know, I think counsel asked you whether you try to persuade him.

The Witness: All right, I will give you a very specific case.

I'm thinking of a large manufacturing firm making machinery. They had a good press section, and as soon as they got an export order it would be in the paper "worth so much." So, I would go up and ask whether we had a chance to handle it and where it was going.

The answer would inevitably be, when we get more detail, we will give it to our export agent in New York; he will tell us where to ship it, and when he does, then we will see [fol. 707] where we stack up on the rail routing.

By Mr. Clark:

Q. Is it your testimony that your solicitors, your freight solicitors, make no effort to persuade the shippers to route traffic through Philadelphia as against the New York?

A. We serve the four ports, sir, and I will reiterate, our job is to get PRR routing on the bill of lading, and not the destination on the bill of lading. The shipper knows where he wants to go.

Q. You are not interested in what port it goes through; is that right?

A. We serve all four, and have regard for all four.

Q. I will repeat the question: You are not interested in which port, so long as the Pennsylvania moves it; is that right?

A. We are interested in all four ports, and we want to handle all the freight from the four ports we can, or to the four ports.

Q. Which port do you prefer that a shipment would move through?

A. I have no preference.

Q. You have no preference?

A. No, sir.

Q. You don't agree with a statement that is attributed to the Pennsylvania Chief Traffic Officer in one of the New York newspapers—

[fol. 708] Mr. Bongartz: We don't agree with the statement of the Chief Traffic Officer put in the New York paper by one Tobin, of New York.

By Mr. Clark:

Q. You don't agree with a statement attributed to the Pennsylvania Chief Traffic Officer in one of the New York newspapers recently that if he had his way he wouldn't route a ton of freight through New York?

Mr. Bongartz: Who attributed that statement, Mr. Clark?

Mr. Clark: It was the newspaper—I am only asking—

Mr. Bongartz: Who attributed that statement to the Pennsylvania Chief Traffic Officer? You read the newspaper. Now, tell us.

It was Mr. Tobin, wasn't it?

Mr. Moerman: This man is conducting cross-examination.

Mr. Bongartz: It is not fair cross-examination, Mr. Examiner. He would indicate or leave the impression on the record that this newspaper statement, referring to the Pennsylvania's Chief Traffic Officer, was some sort of an interview or something that the Chief Traffic Officer said to the newspaper.

Now, if Mr. Clark will be fair about this, he will say that that was a statement attributed to the Pennsylvania by a member of the New York Port Authority.

Mr. Clark: Well, I will accept that, then.

Mr. Bongartz: And the repetition of the statement does [fol. 709] not make it true.

Exam. Boat: With that qualification, the witness can answer the question.

The Witness: I understand the question. You used the word "attributed"?

By Mr. Clark:

Q. I asked if you agree with that statement that was attributed to him in the newspaper.

A. Will you repeat the statement?

Q. If he had his way, he wouldn't route a ton of freight through New York.

A. Well, the same would apply to him as would to anybody else, in that a railroad solicitor is not going to have the opportunity to route a ton of freight.

Mr. Clark: I won't pursue it any further.

Thank you, Mr. Crowl.

Mr. Keenan: I have a couple of questions, if I may, Mr. Examiner.

By Mr. Keenan:

Q. Mr. Crowl, you just said to counsel that you don't know anything about the ore case.

I don't mean to question you about the ore case, Mr. Crowl, I should like to ask you about some ore rates.

Before I do so, tell me, is it fair for me to go ahead on the assumption that you know something about ore rates?

Mr. Bongartz: Will you clarify what you mean by ore?

By Mr. Keenan:

Q. Any ore rates, Mr. Crowl, published by the Pennsyl- [fol. 710] vania Railroad.

A. I know nothing about rates handled by our coal department. I am in the merchandise side of the house.

Q. Mr. Crowl, will you tell me what the duties of Assistant Manager, Freight Rates, Freight Sales and Services Department of the Pennsylvania Railroad Company are?

You are one of those people, aren't you?

A. Yes, sir. What we are?

Q. What are the duties of that office, Mr. Crowl, with the Pennsylvania Railroad?

A. The duties?

Q. Yes.

A. In that particular capacity are basically to assist the Manager, Freight Rates. Two of us in turn are head of our merchandise rate room in Philadelphia.

Q. How many such assistants are there with the Pennsylvania Railroad, Mr. Crowl?

A. Myself—taking merchandise?

Q. I'm not asking you about merchandise, Mr. Crowl.

My question is: how many assistant manager, freight sales and services department, are there with the Pennsylvania Railroad? That is the title that you say you have, on the first page of your verified statement.

A. One in Philadelphia. The other died recently. One in Pittsburgh. And two in Chicago.

[fol. 711] Q. Is it the duty of the one in Philadelphia—and do I assume correctly that you are the one in Philadelphia?

A. I hope so.

Mr. Moerman: Living.

By Mr. Keenan:

Q. Is it the duty of the one in Philadelphia to pay attention to the particular territory around Philadelphia, or is it the duty of the assistant manager in Philadelphia to pay attention to system-wide operations of the Pennsylvania Railroad?

A. Basically, our activity is largely confined on traffic originating and terminating along the seaboard, although we do go in both directions west and east from other territories. In other words, in a sense, it covers the railroad.

Q. I think that you began that answer by talking about "our duties," or something like that.

What was the "our," or the "we" to whom you referred just now?

A. I was talking of our organization as a whole, and myself, in such matters of that nature as come to my attention.

Q. Mr. Crowl, I didn't mean to inquire about your organization as a whole, whatever that might be.

I meant to inquire about the duties of a single person, an assistant manager of freight.

A. I endeavored to tell you what the individual single duties are.

[fol. 712] Q. Do I understand you correctly to tell me that those duties have something to do with the terminating and originating of freight on the eastern seaboard, among other things?

A. Originating and terminating rates which are applied to freight.

Q. How does one terminate or originate a rate? Do you mean cancel or publish it?

A. Maybe I wasn't clear.

What I meant to say was, rates from and to the seaboard.

Q. What about rates from or to the seaboard, Mr. Crowl? What do you have to do with them?

A. Well, we have to do with them when there is a question of a change, or somebody wants to know what they are.

Q. Question of a change, did you say?

A. A question of a change, or somebody wants to be advised as to the change of rates, they want to know what the rate is.

Q. In other words, do I understand correctly you give the public and prospective rail patrons and existing rail patrons information, first of all, concerning what the Pennsylvania's railroad transportation prices are; is that right?

A. We have a rate quotation section, that is right.

Q. Is this something you have something to do with, Mr. Crowl, or the assistant manager has something to do with, who is referred to on the first page of your verified statement?

A. Yes. I get requests for a rate.

[fol. 713] Q. You what, sir?

A. People call me and ask me for a rate on something.

Q. Do you exercise any supervisory functions over other people with the Pennsylvania Railroad who provide such information to the Pennsylvania's patrons?

A. Yes, sir.

Q. Now, with regard to changing rates.

You just told me you had something to do with changing some rates that were published by the Pennsylvania Railroad when rates are changed, is that right?

A. Yes, sir.

Q. Now, did you tell me that those rates are rates which govern charges collectible for the movement of traffic to or from points on the eastern seaboard of the United States?

A. That is right.

Exam. Boat: Have you identified that, to or from points on the eastern seaboard? Is that descriptive of what you have in mind, or do you have in mind the affected territory?

Mr. Keenan: That takes care of one end of the movement. I meant now to go into the other end, Mr. Examiner. Thank you, very much.

By Mr. Keenan:

Q. In line with the inquiry which the Examiner most appropriately suggested, do the rates you and I have been talking about just now, Mr. Crowl, involve the terminating or originating of traffic in differential territory in [fol. 714] the United States?

A. Among other territories.

Q. Among other territories?

A. Yes.

Q. I mean to ask you, Mr. Crowl, only about the rates that you as assistant manager are concerned with the changing of.

Is the scope of commodities with which those rates have something to do, limited in any way?

A. I think I—

Q. Is the question unclear?

A. I think I understand it, I think it is clear.

As I understand it, you are talking about commodities generally.

I think I said before—

Q. No, Mr. Crowl, just to make sure we have a common understanding, I wasn't talking about commodities generally, specifically or any other way.

If you have doubt about what I was talking about, I will ask the reporter to read the question again.

Mr. Bongartz: Suppose you do that. I have some doubts.

(Question read.)

Mr. Bongartz: Do you understand that question, Mr. Crowl?

The Witness: I don't believe I do.

By Mr. Keenan:

Q. Then, I think I better ask it over, Mr. Crowl. It is very important you and I understand each other.

[fol. 715] You have to do with some rates, if I may use a little shorthand now, you just told me, Mr. Crowl, right?

A. Yes.

Q. And those rates govern the movement of traffic on the Pennsylvania Railroad in some respects, right?

A. Yes.

Q. Now, those rates that you have to do with—what I mean to ask you about them is: are they rates governing all commodities which may be handled by the Pennsylvania Railroad, or only some commodities which may be handled by the Pennsylvania Railroad?

A. Well, we don't change all our rates on everything every day.

Q. I realize that, Mr. Crowl. I'm referring to rates, not that you change every day, but that the assistant manager referred to in your statement, rates that the assistant manager has something to do with.

A. Well, if there is something to be done, then it is proper to do something with it.

Exam. Boat: He has in mind whether a change may be contemplated—a prospective change.

By Mr. Keenan:

Q. You have some rates within your jurisdiction, Mr. Crowl: rates on what, if you please?

A. Rates on merchandise traffic.

Q. That excludes what, Mr. Crowl?

A. Anthracite and bituminous coal, coke, a direct product [fol. 716] of coal, and crude iron ore.

Q. Is there somebody with the Pennsylvania Railroad who has a position comparable to yours with regard to such

anthracite coal and other products of mines that you may have included in your last answer?

A. Yes, sir.

Q. Who is that, please?

A. Well, that is the Assistant Manager of Coal Traffic Rates and Sales—I think it is.

Q. He, too, is alive to day, right?

A. I hope so.

Q. Where are his headquarters?

A. Well, there are, I think, four of them.

Q. What did you say?

A. There are four.

Q. I can't hear.

Mr. Bongartz: Four.

The Witness: There are four of them.

Exam. Boat: Four headquarters?

The Witness: There are four headquarters, and four assistant managers.

By Mr. Keenan:

Q. Is there anybody who is boss of those four?

A. Yes, sir.

Q. Who is that, please?

[fol. 717] A. He is the Manager, Coal Traffic Freight and Sales.

Q. Who is he, and where is he, please?

A. Well, now, that is the Manager. Then, we have a General Manager of that Department.

Q. I wish you would answer the first question first, then you can tell me—

Exam. Boat: Let's be more direct, Mr. Crowl. I think you know what counsel is trying to determine here.

Mr. Bongartz: Give him a name.

The Witness: Which one, sir?

By Mr. Keenan:

Q. The first one we are talking about, Mr. Crowl, I confess I can't tell you general managers from assistant general managers, but tell us who is in the picture, please.

A. Our Coal Department people.

Q. Who heads it up?

A. Mr. Stuart is the General Manager of Coal Traffic Rates and Sales. I think that is right.

Q. Where are his offices?

A. Philadelphia.

Q. Have you ever had occasion to discuss this case with him, this case we are involved in right now, in a chat over the luncheon table or over the telephone or something?

A. I would have no reason to.

Q. That is not what I have asked you.

[fol. 718] A. I have not.

Q. I want to make sure the witness understands what my question is, because someplace it appears that he isn't answering precisely.

Mr. Macleay: Why don't you listen to his answer, then?

By Mr. Keenan:

Q. Mr. Crowl, have you ever had occasion ever over the luncheon table or over the telephone to discuss this case with Mr. Stuart?

A. I have not.

Mr. Walker: Mr. Examiner, I have an objection here. I am buying part of this record and have to pay for it. All of these questions about who is general manager of the coal sales has nothing to do with this case, or where he is located.

Exam. Boat: Mr. Walker, I think we could cut down the record a great deal if we had direct answers. I think he is trying to get that direct answer.

By Mr. Keenan:

Q. Your answer was no, to my question, before the objection; right?

A. Yes, sir.

Q. And by the same token, if I understand you right, Mr. Crowl, Mr. Stuart has never had occasion to discuss with you in any casual way, over the telephone or over the

luncheon table, the iron ore case, or iron ore rates; right?
A. That is emphatically correct.

Q. Mr. Crowl, is there any kind of a rule around the [fol. 719] Pennsylvania Railroad that executives can't talk to each other about business at lunch?

Mr. Bongartz: I object. That is a frivolous question.

Mr. Keenan: I will withdraw it.

By Mr. Keenan:

Q. Now, are there any other rate departments with your road comparable to your merchandise rate department and Mr. Stuart's ore, or products of mines rate department, whatever it is?

Are rates on other commodities, certain other categories of commodities, handled separately?

A. No, we only have the two divisions.

Q. These are the two divisions?

A. Yes, sir.

Q. Do I understand correctly, Mr. Crowl, that you are responsible for your division you headed up?

A. I think I mentioned we have a manager of freight rates in our organization. I'm the assistant manager.

Q. Right.

Does Mr. Stuart report to that manager of freight rates?

A. Oh, no, sir.

Q. Now, it would follow, I guess, from what you told me, Mr. Crowl, that you don't know what, if any, relationship existed between iron ore rates to and from Baltimore and iron ore rates to and from Philadelphia between 1950 and 1952, right?

A. I do not.

[fol. 720] Q. If I were to ask you the same question all the way through to 1958, your answer would be the same; is that correct? A. Yes, sir.

Q. Mr. Crowl, will you permit me the observation that you are singularly devoted to the duties of your office?

A. Thank you.

Q. To the exclusion of all others.

Mr. Bongartz: We appreciate Mr. Keenan's commendation.

Exam. Boat: Confine your comments to questions, please.

Mr. Keenan: I'm sorry, Mr. Examiner. I will do so in the future.

By Mr. Keenan:

Q. Now, did you tell me that Mr. Stuart is concerned with crude ore—crude iron ore?

A. He should be. That is his job.

Exam. Boat: We will take a 10-minute recess.

(Short recess.)

Exam. Boat: Come to order, please, gentlemen.

By Mr. Keenan:

Q. Mr. Crowl, when you change rates, do you pay some attention to the volume of traffic which the Pennsylvania Railroad is moving under the rate before you make your decision whether it should be changed?

A. The basic requirement of any freight rate must be that it be compensatory.

Q. Mr. Crowl, I withdraw that.

Mr. Keenan: Mr. Examiner, may the witness be directed [fol. 721] to answer my question?

Exam. Boat: I think the question is a direct question, and can be answered directly.

Mr. Keenan: It calls for yes or no, Mr. Crowl, I think fairly clearly, or I don't know, perhaps.

The Witness: If I understand rightly.

Mr. Keenan: Just a minute, Mr. Crowl.

If there is any doubt about that, will the reporter read it?

(Question read)

The Witness: That is one of the factors.

By Mr. Keenan:

Q. The answer to my question then, is, yes, you do pay some attention to volume of traffic?

A. We do pay some attention.

Q. That is all I meant to ask, Mr. Crowl. We will get along if we confine the conversation to questions and answers.

That would mean, would it not, that you, in the exercise of your duties, as you described them, with the Pennsylvania Railroad, have to be aware of the volume of traffic that is moving under the rates now published by the Pennsylvania Railroad, perhaps not specifically but generally; right?

A. We pay attention to the volume of that commodity we are considering in relation to compensatory nature of the rate.

Mr. Keenan: Mr. Examiner, the witness was a little bit "on the mark," but it still was not responsive. May he be directed to give me a responsive answer? I want to find out [fol. 722] about his awareness of movements of volume of traffic moving. I wanted to find out about his competence, whether he knows about volume of traffic at all in the performance of his duties.

May he be directed to answer my last question responsively?

Exam. Boat: I think he made an attempt to answer it.

Let's have the question and answer read, please.

(Question and answer read)

Mr. Bongartz: I think that answers the question, Mr. Examiner.

Mr. Keenan: I didn't ask him to what he paid attention. I only asked him whether the performance of his duties requires him to be aware of traffic moved.

Exam. Boat: If he paid attention to it, I think he is aware of it.

By Mr. Keenan:

Q. All right, then, Mr. Crowl, do I understand you correctly from your answer, or may I infer from your answer that you are, or you try to make yourself aware of the volume of traffic moving on the Pennsylvania Railroad?

A. Total volume of traffic?

Q. No, volume of traffic that is related to specific rates which may come up before you for adjustment.

A. That is the way I understood it, and that is the sense in which I gave my answer.

Q. Fine.

Now, when you said that Mr. Stuart was concerned with [fol. 723] crude ore, crude iron ore, did you mean to tell me that he was concerned with ores and concentrates, NOS?

A. What commodity class is that, please?

Q. 319, Mr. Crowl.

A. I do not recollect that iron ore is 319.

Q. I am fairly sure it is not.

Off the record.

(Discussion off the record.)

Exam. Boat: On the record.

Mr. Keenan: Could I hear the last question? I confess I am not sure what it was I wanted to know.

(Question read)

Mr. Keenan: I withdraw the question. I don't mean to testify.

By Mr. Keenan:

Q. When you refer, Mr. Crowl, to Mr. Mollman's MLM-5, page 5 of the Import Section, does that refresh your recollection on the matter, or assist you in remembering whether that 319 category is iron ore?

A. My recollection, it is not.

Q. It is not.

If it is not crude iron ore, am I correct in understanding, Mr. Crowl, that rates on a commodity such as this would be within your jurisdiction with the railroad?

A. If the question should arise, it could be.

Q. If the question of changing them should arise, right? [fol. 724] A. It could be, yes, sir.

Q. Now, Mr. Crowl, at page 5 of Witness Mollman's MLM-5, the Import Section reflects that during the 12-month test period or traffic study period, 1,283,888 tons of

ores and concentrates, NOS, moved into the Port of Baltimore and out thereafter to differential territory.

To begin with, do you know of any reason to question the accuracy of that figure?

A. I assume it is correct.

Q. I would, too.

Now, do you know in any sort of the vaguest most general fashion even, what portion that tonnage was handled by the Pennsylvania Railroad?

A. No, sir, I do not.

Q. In the performance of your duties with the Pennsylvania Railroad for the past two or three years, have you ever had occasion to investigate how much ores and concentrates the Pennsylvania Railroad is handling out of Baltimore compared with that handled by its competitors in Baltimore?

A. I recall no specific instance when I have been into that question.

Q. It apparently, then, has been a matter of no interest to the management of the Pennsylvania Railroad what share of that traffic it has. Is that correct, so far as you know? Will you answer, Mr. Crowl?

[fol. 725] A. Oh, excuse me.

Mr. Keenan: Was there an objection? I didn't hear it.

Exam. Boat: His counsel objected.

Mr. Keenan: What grounds, Mr. Examiner?

Exam. Boat: He hasn't stated.

Mr. Bongartz: I think you are carrying this witness beyond his field, Mr. Keenan, and I object to your asking a question phrased as you have phrased it.

Mr. Keenan: Well, if this is beyond his field, I confess, Mr. Examiner, it is with some astonishment he is tendered by the Pennsylvania Railroad as a traffic witness in this case.

Mr. Bongartz: Aside from your astonishment, I object.

Mr. Keenan: My question was confined to this area of his knowledge. I asked him not to tell me unless he knew.

Exam. Boat: Can you answer the question?

Mr. Bongartz: The question is, do you know?

By Mr. Keenan:

Q. Do you have the question in mind?

A. I have had no occasions to specifically look at or try to determine that tonnage.

Mr. Keenan: That wasn't my question. I guess I will have to ask it be read.

(Question read.)

The Witness: My jurisdiction does not run to what share of any particular business we get in the normal solicitation effort.

[fol. 726] Mr. Keenan: That is not responsive, Mr. Examiner. His answering in this question doesn't in the slightest require his jurisdiction to have included investigation of shares of traffic.

Mr. Bongartz: He asked about the management of the railroad, Mr. Crowl.

The Witness: Well, the management certainly has an interest in the tonnage we handle.

Mr. Bongartz: Do you know whether management has considered this particular matter that Mr. Keenan is talking about?

The Witness: As to that, I do not.

Mr. Bongartz: Does that answer your question?

Mr. Keenan: It does, Mr. Bongartz. Thank you for your assistance.

Mr. Bongartz: You are welcome.

By Mr. Keenan:

Q. Mr. Crowl, are you in a position to testify generally concerning the degree to which the management of your railroad is concerned with the share or portion of the tonnage import-export differential territory tonnage that it gets into and out of Baltimore? I don't want to inquire of you concerning this if you don't know anything about it.

Do you want the question read?

A. Please.

(Question read.)

Mr. Bongartz: Mr. Examiner, I submit the question is [fol. 727] not susceptible of answering. He asked him a question generally about the degree of this. How in heaven can anybody answer a question phrased in that way?

Exam. Boat: I think he can indicate generally.

Mr. Bongartz: Generally, the degree.

Mr. Keenan: I didn't ask him what degree, I just wanted to know whether he can tell us about this area of management.

Mr. Bongartz: I submit the question is improperly phrased.

Mr. Keenan: I claim it, Mr. Examiner.

Exam. Boat: Can you explain it?

Mr. Keenan: No, I said I claim the question. I can break it down if the Examiner wishes me to.

Exam. Boat: Are you asking whether they have any degree; is that the question?

Mr. Keenan: No, sir, I want to inquire concerning the witness' competence in order to short-cut a long line of interrogation that might be appropriate on some specific commodities that are moving through Baltimore.

I want to find out whether this witness is unable to tell us what, if any, concern his management has about its share of traffic through Baltimore.

He has told us that he imagines, fairly and I think honestly, he imagines his management is somewhat concerned about its share of traffic through Baltimore.

He has also told us at least with regard to one com- [fol. 728] modity classification he couldn't tell us what if anything his management is doing about it, or what if anything his management even thinks about it.

If this is true across the board, I won't badger him about this sort of thing.

Mr. Bongartz: I think the witness has already stated, Mr. Examiner, in the course of his cross-examination, that the Pennsylvania Railroad is concerned with getting more traffic. It is in the business of running a railroad and wants to get traffic.

Now, I don't know what purpose the inquiry of this witness as to what management has in its mind—

Mr. Keenan: Suppose I withdraw in light of what you said, Mr. Bongartz.

Mr. Bongartz: All right.

By Mr. Keenan:

Q. Is Mr. Bongartz right, that Pennsylvania management is concerned with getting traffic along its line from whatever source, as long as it can be handled profitably?

A. That is correct, as long as it can be handled profitably.

Q. I thought maybe I could be able to short-cut the usual qualification in that regard.

Now, if that is true, isn't it a fact that the Pennsylvania Railroad's management keeps track of the amount of tonnage that it is handling in areas where it is competitive with other railroads?

[fol. 729] A. Our sales offices keep statistics on those questions, yes, sir.

Q. And somebody reads those statistics, don't they?

A. Yes, they do.

Q. Aren't you one of the people who has to be concerned with reviewing those statistics every now and then—or parts of them?

A. Every now and then when we have need for them, we use them.

Q. Mr. Crowl, surely you haven't become a witness in this case, have you, without having reviewed statistics on import-export tonnage handled by the Pennsylvania Railroad to and from differential territory; is that right?

A. We made a study of that traffic.

Q. You have reviewed those statistics, haven't you?

A. Yes.

Q. Now, among other things, haven't you reviewed some statistics concerning how much tonnage in commodity category 319, or like categories, that the Pennsylvania Railroad handles through the Port of Baltimore that is involved in this case?

A. Well, I will answer you this way: Prior, you were talking generally; now, you're talking specifically, and under my supervision and direction we did make a study of the volume of that commodity through the Port of Baltimore for the period of movement studied.

Q. Wonderful.

[fol. 730] Now, do you know how much of it moved via the Pennsylvania Railroad through the Port of Baltimore?

A. I do not have those statistics with me. They are in the traffic study.

Q. What did you say? They are in the traffic study?

A. Yes.

Q. Well, what traffic study are you referring to?

A. Mr. Mollman's exhibit.

Q. Which one is that, can you refresh my recollection, Mr. Crowl?

A. MLM-2.

Q. Have you got a copy of that near you, Mr. Crowl, conveniently, or can your counsel furnish it?

A. No, sir, I don't have it.

Exam. Boat: I have one.

(Copy furnished to witness by Examiner.)

Mr. Keenan: Thank you, sir. If you will be so kind as to give it to the witness.

(Handed to the witness by the Examiner.)

By Mr. Keenan:

Q. Mr. Crowl, will you tell me where you and Mr. Mollman—I assume there is some collaboration there—put together this commodity 319 tonnage in this study in the exhibit to which you have reference right now—what is the number of that exhibit, please?

A. MLM-2.

[fol. 731] Q. Thank you, sir.

A. For the year 1955, for the Group 319, is on page 74.

Q. I didn't hear what you said just now. I am so sorry. For the year 1955?

A. For the year 1955, the total tonnage handled by the three railroads through Baltimore for Commodity Class 319 shows on page 74.

Mr. Bongartz: Is that the volume tonnage?

The Witness: That is the volume tonnage.

By Mr. Keenan:

Q. Now, that figure is 1,015,463 tons, right, Mr. Crowl?

A. Yes, sir.

Q. Now, on Mr. Mollman's MLM-5, page 5 of the Import Section that we have been discussing before, some 1,283,888 tons are reflected for Baltimore, Maryland.

Exam. Boat: That is for a different period.

By Mr. Keenan:

Q. Is that a different year?

I see, of course.

Well, then, the figure that I have been discussing is on page 82, is it not, down at the bottom, of Mr. Mollman's MLM-2?

A. Yes, sir.

Q. Is there any way on page 82, or elsewhere, in Mr. Mollman's MLM-2 to find out how much of this tonnage was handled by the Pennsylvania and how much by the Western Maryland, and how much by the B&O at Balti- [fol. 732] more?

A. The figures for the three roads are consolidated to make these total figures.

Q. I guess your answer to my question is no; is that right?

A. That is right.

Q. Is there any way to find out from any other evidence that you have put in this case how that 1,283,888 tons was divided among the railroads I have just mentioned at Baltimore?

A. I don't know of any.

Q. Yet, it is a fact that you have just testified, haven't you, that you are in possession of that breakdown?

A. Well—

Q. You know how much the Pennsylvania handled of that 1,283,000-odd tons, don't you, or you have records which contain that information?

A. There are records that will depict that.

Q. And they are your records. You have them, don't you, Mr. Crowl, or your office?

A. They are in the Baltimore offices.

Q. They are your records and you have access to them yourself if you want to, don't you?

A. That is correct.

Q. Now, Mr. Crowl, at any time in the course of your deliberations concerning the rates which are involved in this case, or in the course of the work you have done in [fol. 733] preparing evidence for this case, have you ever informed yourself or acquired information concerning what share of the traffic to differential territory—import-export traffic—moving through Baltimore, Maryland, the Pennsylvania Railroad has?

A. Are you talking of total import-export?

Q. At the moment, yes, sir.

A. I don't recollect we tried to make any comparison between the three lines in preparing this evidence.

Q. That is not responsive to the question.

Mr. Bongartz: I think it is.

By Mr. Keenan:

Q. What I want to know is whether you had informed yourself or acquired information yourself with regard to this?

A. We acquired information. We would necessarily have to, to make the study.

Q. I should certainly think so.

Do you recall any of that information right now, without asking you about it specifically? Is it completely erased from your memory, or would it be rewarding for me to find out what you can recall?

A. My memory to recall all the data necessary to make this study is not that large.

Q. You don't therefore, if I understand you correctly, Mr. Crowl, remember anything about what share the Pennsylvania Railroad has in the subject traffic through Balti- [fol. 734] more in any particular or general way whatsoever at the moment?

A. In which direction are you speaking?

Q. Mr. Crowl, I'm so hungry for information, I will take it in either direction on any commodity.

A. As to this movement study, I have not tried to memorize the Pennsylvania figures which have gone into it.

Q. Of course not, I understand.

But even though you haven't tried to memorize anything, I'm only trying to find out whether through some happy accident some of this information has remained in your memory. Your answer is no, right?

A. I have not tried to retain it all.

Q. The answer is not responsive. I didn't ask you whether you tried to remember, I am asking you what you do remember, Mr. Crowl.

Mr. Macleay: Mr. Examiner, I submit if he wants to ask a question, he should ask a question and not merely go on a "fishing expedition."

Exam. Boat: He asked if he remembers anything. I think that is what you said, any particular figures.

Mr. Keenan: That is right.

The Witness: I remember the study, but I have not attempted to fix any specific figure in my mind.

By Mr. Keenan:

Q. Mr. Crowl, will you please answer the question responsively? I don't want to know what you attempted [fol. 735] to do at one time; I want to know what is the state of your recollection as you sit on that chair in this room at this moment, sir. You are at liberty to give me the answer "I don't remember," but I would just like to know what the answer is.

A. I have tried to explain to you that we made a traffic study of our tonnage through the ports. We made the end result shown in Mr. Mollman's MLM-2.

As to what I remember for the month of September on commodity Class 231, 1956, I have no particular recollection.

Q. You have no what?

A. No particular recollection of what that was.

Q. I didn't inquire about that. Did you understand me to be talking about Commodity Class 231?

A. No, but I understood you to be asking about—

Q. Anything, Mr. Crowl.

A. —about anything, as to a mass of figures?

Q. Yes. And you recall nothing, if I understand you right; isn't that correct?

A. I have not tried to memorize.

Q. And you recall nothing; is my understanding correct?

A. That is not so.

Q. What do you recall, then, sir? Fine.

A. I recall all the work we did in conjunction with it.

Q. Mr. Crowl, excuse me—

[fol. 736] Mr. Keenan: Mr. Examiner, we are not playing games, this is grown-up business.

Exam. Boat: I think he can indicate as to what extent his knowledge goes at this time.

Mr. Keenan: I should like him to, if the Examiner please.

By Mr. Keenan:

Q. Will you answer the Examiner's question, Mr. Crowl?

Exam. Boat: What extent does your knowledge go as to the proportions of the traffic generally or at any specific commodity?

The Witness: As to the traffic he is talking about here, in MLM-2, our purpose in gathering the data was for the use to which it is put.

Now, as to my studying it as to the relationship of the Pennsylvania tonnage to the total tonnage we showed in the exhibit, I have not done that.

Mr. Bongartz: So you don't know what that is?

The Witness: I have not made any study of that.

Mr. Bongartz: You don't know?

The Witness: No, sir.

Mr. Keenan: Mr. Examiner, may I respectfully invite you to note the witness won't even be responsive to his own counsel. Mr. Bongartz asked him whether he knew, and Mr. Crowl won't tell him whether he knows.

Mr. Bongartz: He just said he didn't know.

[fol. 737] Mr. Keenan: Just a minute, if you please, sir.

I think either the Pennsylvania Railroad—and I say in all seriousness—should withdraw this witness and his testimony in this case, or he should be taken aside and instructed to answer responsively and respectfully to this Commission.

He has refused time and time again to tell any of us in this room what the state of his present knowledge is concerning the Pennsylvania's share of this traffic, and it is a highly relevant question in this case.

Mr. Bongartz: I think the witness has answered the question.

Exam. Boat: I don't think he has answered it to counsel's satisfaction.

Mr. Bongartz: As I understand his answer to the question as to whether he has any knowledge of the Pennsylvania's proportion of these total figures in this exhibit to which reference has been made, was that he does not.

Now, if I am wrong in that, Mr. Crowl can correct me.

Mr. Foley: That I did not understand.

By Mr. Keenan:

Q. Mr. Crowl, did you hear what Mr. Bongartz just said?
A. He is correct.
Q. He is correct?
A. Yes.

Mr. Keenan: May I hear Mr. Bongartz' remark, Mr. [fol. 738] Reporter, just to make sure whether we can lay this to rest?

(Statement read)

By Mr. Keenan:

Q. Mr. Crowl, would you take the export section of MLM-5, which I just gave you—no, I will ask you to take the import section.

Run your eye down page 3 of the import section, Mr. Crowl, and tell me whether you recall any commodity categories on that page concerning which rate change proposals have been processed by your office.

I'm of course talking only about differential territory, import-export traffic.

Mr. Moerman: What period are you talking about?

Mr. Keenan: The last two years or so.

By Mr. Keenan:

Q. Again, Mr. Crowl, I'm grateful for any information which you may happen to recall on the subject.

If you don't find anything on page 3, would you be so kind as to look on page 4?

Well, Mr. Crowl, I don't mean to suspend this hearing for an excessive length of time for the purpose of the review I asked for. Perhaps we can let it go, and we might have a chance to chat about it after lunch, but I won't press you on this.

A. Your question was specifically applied to import.

You must understand under the rate application tariffs if you lack an import commodity rate, you go to the import [fol. 739] class tariffs, and if there is a domestic commodity rate lower than the import class rate, the domestic applies.

So, to ask a specific application here to try to identify it specifically as to import, can be a rather difficult job.

Q. To be quite frank with you, Mr. Crowl, I asked the question merely to find out concerning which of these commodities you might have had occasion in the past in your professional capacity to review.

The only reason, if I may continue for just one minute, sir,—the only reason I asked this is to eventually ask you about what you know about the volume in which these commodities moved.

I wanted to find out if there were specific areas of your recollection could be refreshed in any way before we go out to lunch. If not, I will abandon the inquiry.

A. I think I explained to you previously, in making an adjustment, we do consider the volume, but we look at the volume at the time we consider the rate.

Q. I should think so, sir.

On pages 3 and 4 here, that I invited your attention to, are there any adjustments you have made that you can recall that provided the occasion for you to review them? If so, I want to know what you recall of that volume review.

A. Well, we go from one job to the other—

Mr. Bongartz: Look at those two pages and try to [fol. 740] answer Mr. Keenan's question; whether you recall such circumstance.

The Witness: I don't recall any offhand.

By Mr. Keenan:

Q. O. K., Mr. Crowl.

Now, we lack some specific facts, so the question I have in mind will tend to be a little hypothetical, but please bear with me.

If it were to be true, Mr. Crowl, that the preponderance, the great preponderance of the Pennsylvania Railroad's differential territory import-export traffic moved through the Port of Philadelphia rather than through the Port of Baltimore, or through the Port of New York, would it not then become the policy of the management of the Pennsylvania Railroad to favor any regulatory or other advantages which the Port of Philadelphia could obtain at the expense even of the Ports of Baltimore and New York?

Mr. Bongartz: Did I hear the word "regulatory" in that long question?

Mr. Moerman: Yes, you did.

Exam. Boat: That word was used.

Mr. Keenan: Mr. Examiner, I can't hear you.

Exam. Boat: I say that word "regulatory" was used.

Mr. Keenan: Yes, it was.

Exam. Boat: Counsel had inquired whether it was or not.

Mr. Bongartz: Can we have the question read? It was pretty long.

[fol. 741] (Question read.)

Mr. Bongartz: Do you understand the question, Mr. Crowl?

By Mr. Keenan:

Q. On the advice of my associates, I withdraw the question.

Mr. Crowl, does grain come within your jurisdiction?

A. If we had any movements in our territory.

Q. I can't hear you, sir.

A. If we had any movements in our territory on which there was a request for an adjustment.

Q. Do you happen to have any knowledge whatsoever as to how Commodity Credit Corporation grain moves?

A. I have had no occasion to learn that.

Q. I guess your answer to me is no; is that right?

A. Well, it all depends on how you mean how it moves. It moves on a bill of lading, and it is tendered for a car and we move the car.

Q. All right, sir, that is a fair answer.

Do you happen to know how the grain is sold, Commodity Credit Corporation grain is sold?

A. I have no way of knowing that.

Q. Do you know whether it is sold f.o.b. origin—inland origin—or f.o.b. the port, or f.o.b. overseas destination?

A. I have never seen any sales contracts of that sort.

Q. I didn't ask you that, Mr. Crowl. I asked you whether you had any knowledge whether it was sold f.o.b. origin, [fol. 742] port, or destination.

A. I explained to you, sir, I do not, because I do not have the ability.

Q. Then you don't know whether or not, in 1954 and 1955, the f.o.b. port price of export Commodity Credit Corporation grain was equalized at New York, Philadelphia, Baltimore, and Hampton Roads?

A. I have no way of knowing that.

Q. And you don't know, therefore, whether that equalization was ever changed, do you?

Mr. Macleay: Mr. Examiner, I'm going to object to this constant badgering of a witness who says he doesn't know, so then the counsel rephrases the question, modifies it a bit, and throws it again.

We are wasting an awful lot of time and thousands of words of record.

Exam. Boat: I think his first answer that he has no knowledge answers the question.

Mr. Bongartz: If you don't know the whole, you don't know any of the parts making up the whole, I think that is clear.

By Mr. Keenan:

Q. Mr. Crowl, do you know, have you ever heard of a gentleman named Frederick R. Mann? Well, to shorten the matter up, have you any knowledge as to whether he is a director of the Philadelphia Chamber of Commerce?

A. He could be.

[fol. 743] Q. You don't know?

A. There is a Frederick Mann, it occurs to me he is in the City Government of Philadelphia.

Q. A city representative?

A. That sounds—

Mr. Bongartz: He runs some concerts out in Fairmont Park, as I recall it.

By Mr. Keenan:

Q. At any rate, he is a city representative?

A. It strikes a responsive chord.

Q. What is a city representative in Philadelphia, do you recall?

A. A city representative? I never met the gentleman. I do not know what his duties are. He is very active and in the papers, but that is it.

Mr. Keenan: I guess I haven't got any other questions.

By Mr. Keenan:

Q. Well, let me ask you this, Mr. Crowl, before I quit. Do you have any reason to believe that the state of Mr. Mollman's recollection concerning the distribution of traffic, import-export differential territory traffic, among the railroads serving Baltimore would be better than yours?

A. I can't answer that.

Mr. Keenan: I'm content to advise counsel at this time, Mr. Examiner, that after lunch I will make the request to recall Mr. Mollman to the stand for a little cross-exam-[fol. 744] ination on this topic.

Exam. Boat: Are there further questions?

Mr. Bongartz: Have you finished, Mr. Keenan?

Mr. Keenan: I have, thank you.

Mr. Bongartz: I would like to offer Mr. Crowl's Exhibit 60.

Mr. Clark: Before it is received, I have an objection to make.

On page 12 of the exhibit, the first and second full paragraphs on that page are clearly hearsay and objectionable.

Mr. Welsh: I join in that objection.

Mr. Miller: I did have a few questions, Mr. Examiner.

Mr. Bongartz: I'm sorry, I didn't realize Mr. Miller was here.

Exam. Boat: Very well, let's complete the cross-examination.

By Mr. Miller:

Q. Mr. Crowl, beginning on the bottom of page 2 and extending through page 3, are you talking about export-import rates, domestic rates, or both?

A. I'm talking about both, because the rates applied to both types of traffic.

Q. In other words, that percentage formula, applied on domestic as well as import-export rate adjustments, right?

A. Yes, sir.

Q. To what extent was that percentage formula basis [fol. 745] reflected in Docket 15879 class rates, to and from the differential territory?

A. What type of traffic are you speaking of?

Q. I'm speaking of the class rates.

A. Of the domestic class rates?

Q. Well, either, domestic or—particularly import-export.

A. Well, your 15879 to and from differential territory was based on a three-point adjustment, and those key rates generally resulted in the 15879 rates between the ports, or specifically Baltimore, considering the differentials, and the key points in CFA, to about 95 or 96 percent of the 15879 scale.

Q. Therefore, Docket 15879 scale did at least partially reflect this McGraham basis?

A. I didn't compare it.

Q. But at any rate, the Docket 15879 class rates, either domestic or export-import, between trunkline points in CFA territory were not on a mileage basis strictly, were they?

A. They are on a key point adjustment.

Q. Therefore when the Docket 28300 class rates become effective for domestic traffic, there was a change of the basis in the class rates, was there not? In other words, this differential basis was eliminated?

A. Oh, 28300 is higher than 15879. My Statement Y-1, showing a comparison of import class rates with the 28300 [fol. 746] rates from points in differential territory, the reports show that the 28300 differentials were greater than existing port differentials.

Q. Well, perhaps you misunderstood my question. Let's start again.

Under this key point basis which existed under Docket 15879 adjustments, the rates were based upon key point relationships rather than mileages, isn't that true?

A. That is right.

Q. And those Docket 15879 rates between trunkline and CFA were about 10 percent lower than the rates between points in the trunkline, were they not?

A. That may be your figure. I said they generally were 95 to 96 percent of the scale.

Q. In other words, you would say they are four or five percent lower, right?

A. Somewhere along there.

Q. Now, when Docket 28300 adjustment went into effect, that did result in rates between CFA and trunkline on a mileage basis, did it not?

A. Well, your basis was generally 10 percent higher than 15879, and the Commission prescribed the scale.

Q. But in addition to that increase of about 10 percent, is it not also true that this percentage adjustment in the domestic class rates on a key point basis between CFA and [fol. 747] trunkline was abolished?

A. Your 28300 established 40-mile blocks for origin and destination, and the Commission made a scale to operate between.

Q. Yes, but this percentage adjustment related to the McGraham formula is no longer reflected in the Docket 28300 rates as it was in the 15879 rates, right?

A. I think we've gotten away from the McGraham principle.

Exam. Boat: It has been supplanted by the 28300 rate?

The Witness: That is right.

By Mr. Miller:

Q. This key point adjustment reflected in the Docket 15879 rates is not reflected in the Docket 28300 rates?

A. Except they both have groups.

Q. They have mileage block groups for distance purposes?

A. That is right.

Q. But this key point basis has changed, has it not?

A. As to that, yes.

Q. Now, in your export-import rates, which basis are they on at the present time?

A. They are on the old 15879, the port differential.

Q. And that is a—

A. A lower basis.

Q. That is right.

Now, then, that is one of the reasons for the difference in the rates as shown on the exhibit to which you just referred?

[fol. 748] A. One of the differences?

Q. Yes.

A. Well, the fact is, the 28300 rates and the present rates between the points, and the 15879 export rates are exactly that.

Q. Now, then, that McGraham formula, or percentage adjustment between trunkline and CFA territory is still reflected in a good many of the commodity rates, both domestic and import-export, isn't that true?

A. That is correct.

Q. Do I understand correctly that the North Atlantic Port adjustments as between those ports and the differential territory are based upon the Baltimore domestic rate; is that correct?

A. That is right.

Q. And it is not a matter of basing the adjustment on the New York rate and then subtracting it for Baltimore?

A. There were some—I'm talking generally of the class rate adjustment—Baltimore is the key point in most of the territory. There was a little where New York was the key point, the little lower peninsula of Michigan, as I remember.

Q. How about the class rate adjustment?

Is it based upon the Baltimore domestic rate, or is it some other adjustment?

A. The 28300?

[fol. 749] Q. I'm not talking about commodity rates, if I said class rates, I misspoke myself.

How about the commodity rate adjustments; are they based on the Baltimore commodity rates?

A. The commodity rates should be based on New York, Philadelphia, and Baltimore.

Q. So they are not necessarily related to the Baltimore domestic rate?

A. The commodity rates?

Q. That is right.

A. On import-export?

Q. That is right.

A. You can make a comparison, but I don't know that it is done. But you take a key point and build up and down from whatever the key point is.

Q. I am trying to get the general principle.

As a general principle, the North Atlantic port, import-export rates, commodity rates, are not necessarily linked to the Baltimore domestic rate, are they?

A. Well, they could be, but generally they are based on one of the key points and your differentials are built up and down from that key point.

Q. Well, could you give us any illustration of that at all?

A. Well, if you have a proposal, if a shipper makes a proposal for export from Chicago to New York, because [fol. 750] that is where he wants to ship, so that in the handling through the rate committees and the association it would eventually end up, assuming it was approved, with a rate to Boston equalling the proposed rate to New York, the rate to Philadelphia 2 cents less than New York, and the rate to Baltimore 3 cents less than New York. New York becomes the key point.

Q. Well, are the commodity rates, then related to the rates to and from New York?

A. If New York is the key point, yes.

Q. Now, is New York generally the key point?

A. It differs. It is generally New York or Baltimore.

Q. Is it more likely to be New York than it is Baltimore?

A. That is difficult to say.

Q. Would you say it is 50-50 or approximately 50-50?

A. I never made a count.

Q. But it is just as likely to be New York as it is to be Baltimore, isn't it?

A. It all depends on what the shipper wants.

Q. So that the railroads in making import-export commodity rates have no set principle as to what specific port is the basing point for the making of rates, is that right?

A. That is a very general question. I think I already answered as to class rates, that Baltimore was—

Q. I'm talking about commodity rates.

A. Oh, well, if you wish to talk about commodity rates, [fol. 751] we've got the port differential adjustment which is applied.

Q. I'm not talking about the port differential, I'm talking about how the basic rate is constructed:

Is there any specific port that is chosen as the basic port for the making of commodity rates from which the differential is either added or subtracted?

A. Not on the general run of commodities.

Q. There is no particular port?

A. No, not invariably used.

Q. It may be any of them?

A. That is the practice.

Q. But it is usually either Baltimore or New York?

A. That is my recollection.

Q. You have no information as to which is the principal—which is the more likely to be used, Baltimore or New York?

A. I have never analyzed those proposals.

Q. Have the railroads made any analysis of the proportion of traffic that moves under these import-export commodity rates to or from differential territory as compared with traffic moving under the import-export class rates?

A. I don't know of any made on an over-all basis.

Q. Would you say that a relatively small proportion moves under the class rates?

A. I never made a study of that.

Q. You just don't know?

[fol. 752] A. I said I had not made a study, sir.
Q. I know, but do you know?
A. I would have to make a study before I would know.
Q. So you do not know?
A. I told you, sir—
Q. All you have to say is "I don't know."
A. Well, I don't know.
Q. O. K.
Now, then, do you know of anybody who does know?
A. I don't know of anyone.

Mr. Miller: Those are all I have.
Thank you, sir.
Exam. Boat: I presume you re-tender the exhibit?

OFFER IN EVIDENCE

Mr. Bongartz: I re-tender Exhibit 60.
Mr. Clark: I object, Mr. Examiner, to the introduction or the receipt of the two full paragraphs on page 12 of Exhibit 60.
Mr. Bongartz: On what grounds?
Mr. Clark: On the grounds they constitute hearsay evidence and are inadmissible.
Mr. Bongartz: I would like to ask the witness a few questions in view of that objection.

Redirect examination.

By Mr. Bongartz:

Q. Mr. Crowl, is the Pennsylvania Railroad a member of the Freight Traffic Committee, Trunkline Territory Rail-
[fol. 753] roads?
A. Yes, sir.
Q. At page 12, are you referring in both paragraphs to what occurred at public hearings before that committee?
A. Yes, sir.
Q. And was a record made of what happens at the hearings of that committee?
A. They are distributed to the membership.
Q. That is done in the ordinary course of business?

A. Yes, sir.

Q. That is the source of your information?

A. Yes, sir.

Q. For those two paragraphs?

A. Yes, sir.

Mr. Bongartz: I think that answers the objection, Mr. Examiner.

Mr. Clark: It might answer the first paragraph, Mr. Examiner—

Mr. Bongartz: I asked whether both paragraphs, Mr. Clark, were in the same category.

Mr. Clark: But, Mr. Examiner, the second paragraph concerns the opinions of a southern shipper. That shipper is not here to be questioned on the witness' opinions. I think that is still hearsay.

By Mr. Bongartz:

Q. Did I misunderstand you, then, Mr. Crow[; this sec-
[fol. 754] ond paragraph did not relate to a public hearing before the Freight Traffic Committee, Trunkline Territory Railroads?

A. That situation was before the General Freight Traffic Committee of the Eastern Railroads, and arose through a southern shipper filing with the SFA for an adjustment which the SFA—

Q. All right.

That general committee you referred to, the Pennsylvania is likewise a member of that?

A. Yes, sir.

Q. And the minutes were made of what occurred at that meeting?

A. We were supplied with the proposal from the south.

Mr. Clark: Mr. Examiner, that is still hearsay. They are referring to the opinions or statement of a southern shipper and about his experience in exporting through the North Atlantic ports.

I still say that shipper is not here to be examined on it, and it is hearsay. It is objectionable on that ground.

Mr. Welsh: With regard to the first paragraph, if the Examiner please, it goes on to give the shipper's reasons

for asking for these rates. He says, because it is confined, and so forth.

And it seems to me that that is hearsay. We don't know what is in back of that applicant's intentions. We haven't got enough of the record, and we certainly have a right to [fol. 755] examine him if it is going in.

Mr. Bongartz: Possibly you don't, Mr. Welsh, but certainly Mr. Clark does. His railroad is a member of the same committee as the Pennsylvania.

Mr. Clark: I have withdrawn my objection to the first paragraph, but not the second.

Exam. Boat: I think the second paragraph is subject to a valid objection, and I will rule that the exhibit will be received with the exception of that paragraph.

Mr. Keenan: Mr. Examiner, could my general objection very briefly held until its receipt at all on the ground that the state of the witness' knowledge has been revealed to be so overly selective that he is not competent to withstand cross-examination on this area of evidence for the Pennsylvania Railroad?

Exam. Boat: Your objection will be noted, Mr. Keenan. The exhibit is received.

(Protestant's Exhibit No. 60, Witness Crowl, was received in evidence.)

Exam. Boat: You are excused. Thank you, Mr. Crowl.

(Witness excused.)

Exam. Boat: I think we are ready for another witness.

Mr. Claytor: Mr. Examiner, may I offer in evidence at this time and for identification, the verified statement of F. S. Baird, Vice President in Charge of Traffic at the [fol. 756] Norfolk and Western Railway Company?

There has been no request for cross-examination of Mr. Baird.

Exam. Boat: His statement may be identified as No. 61—Exhibit No. 61.

(Protestant's Exhibit No. 61, Witness Baird, was marked for identification.)

Mr. Keenan: Mr. Examiner, at a time that appears to you appropriate, I should like to seek an opportunity to

discuss this matter of traffic split at Baltimore and Philadelphia with Mr. Mollman.

Mr. Langdon: We will be delighted to produce him at any time you want.

Exam. Boat: We won't take time in the hearing to do that.

Mr. Keenan: I meant on the record, Mr. Examiner, to recall him for further cross.

OFFER IN EVIDENCE

Mr. Claytor: Mr. Examiner, I offer in evidence Exhibit No. 61.

Exam. Boat: There being no objection, that is received.

(Protestant's Exhibit No. 61, Witness Baird, was received in evidence.)

Mr. Claytor: May the record show I hand a copy of the exhibit to the reporter.

I call Mr. Keeley.

[fol. 757] C. F. KEELEY, was sworn and testified as follows:

Mr. Claytor: Mr. Examiner, may the verified statement of Mr. C. F. Keeley, Freight Traffic Manager of the Norfolk and Western Railroad, with accompanying exhibits, be identified?

Exam. Boat: That may be identified as No. 62.

(Protestant's Exhibit No. 62, Witness Keeley, was marked for identification.)

Mr. Claytor: I hand to the reporter a signed copy of Exhibit No. 62.

I have two preliminary questions of Mr. Keeley.

Direct examination.

By Mr. Claytor:

Q. Mr. Keeley, what floating equipment does the Norfolk and Western own?

A. None.

Q. Mr. Keeley, does the Norfolk and Western offer any free lighterage service at the Port of Norfolk?

A. No.

Q. Any lighterage service at the Port of Norfolk?

A. No.

Mr. Claytor: You may cross-examine.

Cross examination.

By Mr. Keenan:

Q. Mr. Keeley, at some time during our conversation I should like to talk to you about Witness Mollman's MLM-5, so I will furnish you a copy for your convenience.

[fol. 758] A. Talk to Mr. Mollman about his exhibit, not to me.

Q. Will you accept a copy, Mr. Keeley?

A. Yes.

Q. Thank you.

Mr. Keeley, at page 3 and page 4 at the bottom of page 3 of your statement, you refer to the fact that every week you see the reports of the Foreign Freight Department of the Norfolk and Western.

Have you any of those weekly reports with you, sir?

A. No.

Q. Do those reports reflect the volume of iron and steel articles which move from Pittsburgh?

A. Yes. It is relatively small, because we do not have differential rates between Hampton Roads and Pittsburgh. There is where we have the New York rates.

Q. You have the New York rates from Pittsburgh?

A. Yes.

Q. And are those New York rates commodity rates, Mr. Keeley?

A. Yes.

Q. They are, then, published specially for competitive purposes, right, sir?

A. Yes.

Q. Are you the officer of the Norfolk and Western who is

responsible for making decisions concerning the publication of competitive rates?

[fol. 759] A. Yes. With the exception of coal and coke.

Q. Yes, but iron and steel is within your purview, sir?

A. That is right.

Q. Now, when did the Norfolk and Western publish this Pittsburgh rate on iron and steel on the New York basis?

A. I don't remember.

Q. Does your department keep track of the volume of iron and steel that moves from Pittsburgh? I believe you told me yes.

A. Well, I think what I said to you was that the Foreign Freight Department keeps a record of it, and that information is available to me.

Q. I see.

Now, does the Foreign Freight Department make an effort to determine the total volume of iron and steel moving from Pittsburgh? In other words, the volume which moves competitively with the Norfolk and Western, as well as the volume that is moved by the Norfolk and Western?

A. I think so.

Q. Please tell me on the basis of your review of that information what portion of that traffic moves through Hampton Roads, Baltimore, and Philadelphia.

A. I don't know the division. The sum total of my knowledge in that respect is that the movement through Hampton Roads is very, very small, indeed.

Q. Now, may I invite your attention, even though of [fol. 760] course you are not responsible for its utterance, to Mr. Mollman's Exhibit MLM-5, the export section, page 4.

Would you be so good as to turn the page so you can look at page 4 of that?

A. Yes.

Q. Down at the bottom, the fourth line from the bottom, Commodity No. 583, manufactured iron and steel is discussed.

Is that the commodity to which you referred?

A. Yes.

Q. At the bottom of page 3 of your statement?

A. Yes. And noted there as compared with New York, New York had 580,000-odd tons, and Hampton Roads had 5,416.

Mr. Hanifin: For clarification, the New York lines you referred to are what?

Mr. Keenan: Mr. Examiner, I should be very grateful if counsel will refrain from interruptions except for the purpose of objection.

Mr. Hanifin: It is not interruption. I think it is proper for clarification we should know what New York lines are involved.

The Witness: I don't know.

Mr. Keenan: Excuse me, Mr. Keeley, I think counsel should be instructed to refrain from such interruptions, as they are not proper.

Exam. Boat: Please let Mr. Keenan continue with his [fol. 761] cross examination.

The Witness: I don't believe I know, but my impression is that these figures here represent the movement through New York via the lines that also serve the Ports of Philadelphia, Baltimore, and Hampton Roads.

Exam.-Boat: As well as those lines that do not serve them, any lines that do not serve those ports?

The Witness: I don't think so.

By Mr. Keenan:

Q. Now, some 352 or 353,000 tons of this iron and steel moved through Baltimore during the period in question, did they not, Mr. Keeley?

A. That is right.

Q. And that represented 37.2 percent of the total movement, whereas Hampton Roads had only .6 percent of the total movement?

A. That is right.

Q. That is in general accord with the information you have available to you, isn't it?

A. Yes, sir. Strictly in accordance with the answer I gave you a little bit ago, too.

Q. Now, is the rate from Pittsburgh on manufactured

iron and steel to Baltimore higher or lower than the rate on this commodity from Pittsburgh to Hampton Roads?

A. Without any definite knowledge as to what the rate is, it is bound to be lower.

[fol. 762] Q. The rate to Baltimore is lower?

A. That is right.

Q. Now, Mr. Keeley, would the Norfolk & Western as a road serving Hampton Roads consent to an extension of that rate differential to all of CFA territory?

A. Does that contemplate the New York rates to and from Hampton Roads, on the one hand, and from and to all central territory, on the other? Is that the import of your question?

Q. Yes, sir, in part.

My question had in mind that there would be two rates we are discussing, rates between—rates to Hampton Roads and rates to Baltimore.

From Pittsburgh there is a differential at the present time you have advised me that is to the advantage of Baltimore, am I correct?

A. That is right.

Q. Would the Norfolk & Western consent to an extension of that differential relationship between Hampton Roads and Baltimore on manufactured iron and steel to the entirety of CFA territory if it is asked to do so?

Mr. Claytor: Mr. Keenan, that is the statement of the position of the Norfolk & Western Railroad, and I will be glad to tell you.

Mr. Keenan: Mr. Examiner, I respectfully request that the counsel not testify in this proceeding.

[fol. 763] Mr. Macleay: This is not testimony, Mr. Examiner.

Mr. Keenan: Just a minute. I think it is perfectly legitimate for counsel to object to my questions and state the grounds of the objection. I object to statements of counsel on the record unless they are in the nature of a stipulation. I am not seeking a stipulation.

Mr. Claytor: Mr. Examiner, I am entitled to state the position of the Norfolk & Western.

Exam. Boat: I don't think his question calls for a statement of position.

Mr. Keenan: No, it did not, sir.

Exam. Boat: Will you just read the first few phrases of the question, Mr. Reporter?

(Record read.)

Mr. Claytor: Mr. Examiner, it is definitely a statement of position. May I state why?

They are asking, in effect, whether we want our rates made against the Baltimore or made against New York. I will state for the record we are here seeking to put in rates and maintain rates which are three cents under New York, without any regard to the relationship to Baltimore.

Exam. Boat: Are you objecting to the question?

Mr. Keenan: I request counsel's remarks be stricken because they did not constitute an objection.

Exam. Boat: You did not state an objection.

[fol. 764] Mr. Claytor: I am entitled to state a position, and I would like the record to show that is our position.

Mr. Keenan: I move it be stricken.

Mr. Hanifin: If the Examiner please, we object to the question because it doesn't ask for a factual conclusion from this witness. This witness is tendered for factual examination, and Mr. Claytor was just simply stating what the position was as counsel, and the witness is not tendered for any statements of position.

Exam. Boat: He hasn't asked for any statement of position. It is a straightforward question here of the witness that I submit he can answer.

Mr. Keenan: May it be answered, sir?

Exam. Boat: Yes.

By Mr. Keenan:

Q. Mr. Keeley, do you have the question in mind?

A. Yes, sir. The answer is no.

Q. Will you give me your reasons why not, Mr. Keeley?

A. Well, the competitive situation and the historical relationship of the rates to and from—port relationship territory require that the ports of Hampton Roads be carried on the Baltimore basis.

Q. What is the competitive relationship to which you just referred, Mr. Keeley?

A. The superior services, including ship sailings and all [fol. 765] of the things that are in this record which make New York the No. 1 port of the nation.

Q. Mr. Keeley, I had inquired of you concerning whether the Norfolk & Western would consent to a rate differential which would place it at a disadvantage with Baltimore, and I understood you to tell me that the Norfolk & Western would not desire that; and then I asked you why.

Now, you have told me, sir—

A. I affirm that answer.

Q. You have told me, sir, the reason why has something to do with New York.

A. That is right.

Q. Will you explain to me why New York has any effect on the propriety of an equality or a differential, whichever it might be, between Hampton Roads and Baltimore?

A. I would say the reasons which indicate that Hampton Roads should have rates lower, differentially, than New York, applies with equal force to Baltimore.

Q. What are those reasons, as they apply to Baltimore, if you please, Mr. Keeley?

A. The same reasons as they apply to Hampton Roads. The scarcity of sailings.

Q. Let's see, did you mean to tell me just now there is a scarcity of sailings at Hampton Roads or Baltimore?

A. Both.

[fol. 766] Q. I see.

Are the sailings that serve Hampton Roads and Baltimore in your view to the extent you are paying attention to them in order to reach a decision on this question, the same?

A. I think they are substantially the same.

Q. Mr. Keeley, what would be the practical effect on the Norfolk & Western business if the type of differential we are talking about were extended to the entirety of CFA territory?

A. That is the rates on the New York basis? My opinion is that the Port of Hampton Roads would dry up.

Q. And that effect would ensue in a situation where Baltimore had a rate advantage over Hampton Roads, is that right, sir?

A. I am assuming that Baltimore and Hampton Roads would have a rate parity.

Mr. Claytor: I think there has been some misunderstanding of your question, and I think you should clarify it and begin again with Mr. Keeley.

Mr. Keenan: I shan't do that, unless you want to help me.

Exam. Boat: Is it convenient to stop at this moment?

Mr. Keenan: Yes.

Exam. Boat: We will recess until 2 o'clock.

(Whereupon, at 12:35 p.m., the hearing was recessed, to reconvene at 2:00 p.m., the same day.)

[fol. 767] AFTERNOON SESSION 2:00 p.m.

Exam. Boat: Come to order, please, gentlemen.

Whereupon, C. F. KEELEY resumed the stand, having been previously duly sworn, and was examined and testified further as follows:

Cross examination (resumed).

By Mr. Keenan:

Q. Mr. Keeley, we were talking about a differential which placed Hampton Roads on a rate basis over Baltimore with respect to import-export traffic.

Now, I should like you to tell me whether it would be in the interest of the Norfolk & Western to consent to an extension of that differential of Hampton Roads over Baltimore to C.F.A. Territory, if Hampton Roads could preserve a three-cent differential under New York at the same time?

A. Our competition is with New York. In order to exist, I figure the Port of Hampton Roads must have a differen-

tial under New York. What Baltimore needs, I will leave to them to say.

Q. No, sir, I had asked you, and I guess you and I understood each other, to assume the differential you desire under New York remained in existence. Have we that clearly between us, Mr. Keeley?

A. Yes, we are talking about rates to and from the territory west of the port relationship line, now?

Q. We are, Mr. Keeley.

[fol. 768] A. Not Pittsburgh?

Q. That is right. We are talking about the extension of the Pittsburgh situation to all of C.F.A. Territory, hence west of the Buffalo-Pittsburgh line.

A. Then my answer to you is that if that contemplates the application of the New York rates to Hampton Roads, the answer is no.

Q. It does not contemplate it. I am asking you to assume that you are able to preserve for the Hampton Road railroads a differential of three cents under New York, which is what exists today, isn't that right?

A. No.

Q. No?

A. It does not exist today in Pittsburgh.

Q. Yes, all right. I'm asking you to assume, however, whether or not it exists today to Pittsburgh, that in C.F.A. Territory west of the Buffalo-Pittsburgh line, west of the Sandusky line, too, you are able to preserve a three-cent differential under New York. I am asking you to assume that to begin with, Mr. Keeley.

However, I'm also asking you to assume that Hampton Roads would at the same time be differentially over Baltimore, as today it is with respect to iron and steel out of Pittsburgh. And finally, what I should like you to tell me is whether it would be in the interest of the Norfolk & [fol. 769] Western Railroad to consent to that type of a rate relationship between Hampton Roads, Baltimore, and New York, with respect to C.F.A. Territory?

A. Definitely I think the answer is no.

Mr. Walker: I don't understand the question.

Mr. Hanifin: He said differentially over Baltimore. I

would like to have the question read. I think there is some confusion. I am trying to follow it.

Mr. Keenan: The question has been answered as I understand it. I am very glad to have it read.

Mr. Walker: Are you asking the witness if he would object to the rate from Pittsburgh and east being the same as Baltimore? I can't understand your question.

Mr. Hanifin: I can't either.

Mr. Walker: I'm not trying to ball you up.

Mr. Keenan: In the interest of an orderly presentation, I prefer to ask the witness the questions, and have the objections, if any.

Mr. Walker: He has asked the witness this question three or four times, and I don't think he and the witness are anywhere near together.

Mr. Keenan: I will be glad to go on to the next question if allowed to.

Mr. Hanifin: I want to be certain that question was answered properly on the record. May I have it read and [fol. 770] Mr. Keeley's answer, so it will be understood what the question and answer was?

Exam Boat: Let's give the reporter an opportunity to read it.

(Read.)

Mr. Keenan: I should like to go on to the next question, if the Examiner permits.

Mr. Walker: I don't think it means anything.

The Witness: I don't think so either.

Mr. Keenan: Just a minute, Mr. Keeley. May the witness be instructed not to volunteer statements. If the comments need supplementation, he has able counsel to comment on them.

Exam. Boat: You may proceed.

By Mr. Keenan:

Q. Mr. Keeley, with regard to page 7—

A. Of my statement?

Q. Yes, sir.

A. I'm ready, if you are.

Q. I am not yet, sir, I am trying to find your statement in my files. When you refer to grain, on page 7 of your statement, with respect to which a present differential has been effective in attracting tonnage, may I inquire whether you are referring to commodity categories 1, 3 and 9, with respect to wheat, corn, barley, and rye?

A. Yes, that is not on this statement, is it?

Q. You will find it on page 6 of the export section of [fol. 771] Mr. Mollman's MLM-5 around the middle of the page.

A. Oh, yes.

Q. Now, Mr. Keeley, how do you know that erasure of the grain differential to which you refer on page 7 of your verified statement would lose Hampton Roads traffic?

A. That is a result of my informed judgment on traffic affairs.

Q. Well, what would be—

A. Bear in mind, this business of making freight rates is not a scientific thing, it is more or less of an art. You just can't pin it down on all corners to save your life.

Q. What would be the transportation conditions or factors which would produce this loss of grain to Hampton Roads to which you have referred?

A. It would not be a transportation condition, it would be a freight rate condition.

Q. Now, at the present time, do you agree that Hampton Roads is handling approximately 36 percent of the grain moving across the Atlantic—North Atlantic Seaboard from differential territory?

A. I don't know where I'm going to get that information. It says here 36.8 percent of wheat, well; that is for the whole category, I suppose.

Q. No, that is just wheat, sir, I don't want to be misleading and I didn't mean to be. I guess I should confine my question to wheat.

[fol. 772] A. That is what this statement shows.

Q. Have you any reason to disagree with the figures on this statement?

A. Oh, no.

Q. Is it in accord with your observation of affairs at Hampton Roads?

A. Yes.

Q. Is it in accord with your knowledge of the present flow of wheat traffic that Philadelphia handles approximately 21.9 percent of it and Baltimore handles 36 percent of it?

A. I have no reason to question the accuracy of those figures.

Q. And, of course, whatever the figure is, this statement says it is around 5.3 percent, New York handles very little of it, doesn't it?

A. I understand there is no established grain elevator as such in New York Harbor, except one over there at the Gowanus Canal.

Q. Whatever may be the exact figure, New York has approximately 5.3 percent of the grain, right?

A. That is what it says.

Q. And you don't disagree with that?

A. That is right.

Q. And it is in accord with your general knowledge?

A. I have no reason to dispute it.

Q. It is in accord with your general knowledge, sir?

[fol. 773] A. Yes.

Q. In those circumstances, if the loss to Hampton Roads of grain traffic should occur, which you and I have been talking about, where would it go?

A. It might go to Albany.

Q. Where—

A. You asked me to guess with you now.

Q. Oh, I see. You can't—you have no information in your professional capacity which would permit you to intelligently to predict where such diverted grain would go except to guess at it, is that right, Mr. Keeley?

A. That is right, it is a very unpredictable thing, Mr. Keenan.

Q. At page 16 of your statement, about the middle of the page, you make reference to differential territory in connection with some 23 points. What is the eastern boundary of the territory to which you refer there, Mr. Keeley?

A. If you will look at my map exhibit, which is included in there, the port relationship line is depicted in a black line that begins at Sandusky, on Lake Erie, and it runs

down through Newark and Mansfield to Marietta on the Ohio River.

Q. Mr. Keeley, you refer to a statement, your No. K-5, showing representative working routes and mileages, to points west of the boundary line which you have just described to me, don't you?

A. That is right.

[fol. 774] Q. In your statement K-2 and K-3, referred to at page 3 of your verified statement, your Exhibits K-2 and K-3 referred to at page 3 of your verified statement, you have set out some representative points east of the boundary line you have just described to me, haven't you?

A. That is right.

Q. And those are points between the Sandusky line, which is the eastern boundary of the Norfolk and Western's differential territory, and the Buffalo-Pittsburgh line which is the eastern boundary of the Baltimore roads and the Philadelphia roads and the New York roads' differential territory, right?

A. Yes.

Q. Have you a circuity study of railroad mileage between Hampton Roads and the points dealt with in your Exhibits K-2 and K-3 similar to the study you have made in your Exhibit K-5?

A. No.

Q. Have you any knowledge right now as to what circuity characterizes Hampton Roads railroads to the territory I'm talking about between these two differential boundary lines and on the other hand, New York railroads?

A. I am willing to concede in a broad general sort of a way, without any specific reference to figures, that the routes of the Hampton Roads lines to the territory east of the Sandusky-Marietta line are relatively longer than the routes of the New York lines.

[fol. 775] Q. Did you mean to say east of the Sandusky line?

A. Yes, if I said west, I was wrong.

Exam. Boat: You said east.

The Witness: I thought I said east.

By Mr. Keenan:

Q. Now, do I understand your position correctly, as reflected at the last page of your verified statement that because, and I quote you, "The purpose of Exhibits K-5 and K-6 is to show that in practically all instances routes of the Pocahontas Lines from Hampton Roads are closer to the absolute short-line distance than are the routes of the New York lines whose rates are under suspension in this proceeding."

Do I understand, Mr. Keeley, it is your position that because of this fact the rates from Hampton Roads to differential territory should be pegged at a level differentially under those from New York?

A. Yes, sir.

Q. Therefore, if I understand you correctly—and please correct me if I'm wrong—in your view, relative circuity and not relative service disabilities should be the primary factor in rate-making?

A. That is not my position.

Q. Circuity, however, remains a very important factor, right?

A. One important factor.

Q. Does the Norfolk & Western, when making its rates, [fol. 776] give appreciable weight to the factor of circuity?

A. Oh, yes.

Q. And whenever possible, does it attempt to make its rates in such a fashion as will reflect the advantages of the shortest route?

A. I will agree with you we undertake within reasonable limits to confine our routes to reasonably direct routes.

Q. Now, does the Norfolk & Western publish joint rates with the Baltimore Steam Packet Company?

A. Oh, yes.

Q. Are those rates applicable to what has been called very vaguely in this proceeding "General cargo", the type of commodity that is the subject of our inquiry here?

A. Please bear in mind that the Baltimore Steam Packet Company handles domestic business and not export and import. Therefore, the term general cargo is not strictly applicable.

What the Baltimore Steam Packet does in conjunction with us, and others, is to make rates from Baltimore to Central Territory differentially related to the all-rail basis. Do I make myself clear?

Q. Yes, you have made yourself very clear, Mr. Keeley.

Exam. Boat: You are speaking of rates from Baltimore through Norfolk to differential territory?

The Witness: Yes, sir. It has nothing to do with this case whatsoever.

[fol. 777] By Mr. Keenan:

Q. Now, did you mean to tell me, Mr. Keeley, that the joint rates which the Norfolk & Western publishes with the Baltimore Steam Packet Company are not applicable, and may not be applied to import-export traffic?

A. I didn't say that.

Q. I didn't think you did. They are equally applicable, if I understand you, to domestic traffic and import-export traffic, is that not correct?

A. Well, I think maybe the way to say it, without getting involved in it, is that if the domestic all-rail that are applicable on export-import traffic, then the domestic rail-water rates are also applicable.

Q. You said that pretty rapidly for me.

Mr. Keenan: Can I hear it?

Exam. Boat: Please read it.

(Read.)

By Mr. Keenan:

Q. While we were off the record you made a statement, please repeat it to me, Mr. Keeley.

A. My answer to your question is that if the domestic all-rail rates to and from Baltimore are applicable on export-import traffic, then also the domestic rail-water rates are applicable. I don't know whether they are or not.

Q. You don't know?

A. No.

Q. Well, I tell you, for the purpose of our conversation.

[fol. 778] Mr. Keeley, let's assume the domestic all-rail rates are applicable to export traffic.

A. I can't assume that for you.

Q. Why not?

A. Because recently a brand new set of domestic class rates have been prescribed, the Docket 28300 class rates. We have never been able to agree with the Gulf Lines and the South Atlantic Port Lines on the way to weave the Docket 28300 class rates into the import-export picture, so, therefore, to that extent the domestic rates in Docket 28300 class rates are not applicable on waterborne traffic.

Q. I see. Well, you recognize, or rather agree, there is, let us say, a possibility that these joint rates published by the Norfolk & Western and the Baltimore Steam Packet are applicable to export-import traffic, right?

A. It is possible.

Q. All right.

Now, let's proceed in this examination or conversation on the assumption that is a fact, recognizing we haven't got it confirmed in the record yet, Mr. Keeley.

Do you know what, if any, relationship there is between the rate level from Baltimore on the one hand to differential territory on the other, when the movement is directly out of Baltimore overland by rail and when the movement is out of Baltimore via the Steam Packet Company to [fol. 779] Norfolk, is that right—to Norfolk?

A. Yes.

Q. And thence from Norfolk overland by rail?

A. I can't tell you the precise measure of the difference, but the rates are lower.

Q. Well, without meaning at all to suggest anything in the record, would it be consistently your recollection that the rates range from 8 to 2 cents under the Baltimore basis?

A. I can't speculate with you on that.

Q. Now, referring to your Exhibit K-1, would it be necessary to speculate very much, Mr. Keeley, in order to determine that the route from Baltimore to differential territory via the B&O and the route from Baltimore to differential territory via Baltimore Steam Packet and the Norfolk & Western are quite—that the latter is much longer than the former?

A. I will concede it is longer, and let's leave the adjective off.

Q. You think it might be just a little longer?

A. No, it will be longer.

Q. When the lading in question reaches Baltimore via the Steam Packet Company, must it be physically transferred from a vessel to a rail car before it may proceed on its journey to differential territory?

Mr. Claytor: Reaches what point, Baltimore?

Mr. Keenan: Maybe I made a mistake, but will the re- [fol. 780] porter read it?

(Read.)

The Witness: I think you meant Norfolk.

By Mr. Keenan:

Q. Did I mean Norfolk, I'm sorry, yes.

A. Yes. We have a pier at which that operation is performed.

Q. So if a lading which originates—if a consignment which originates at a foreign origin moves to differential territory via the Baltimore Steam Packet Company, it must undergo at the least, two intermediate lading transfers at Baltimore and at Norfolk.

A. That is right.

Q. Whereas if it moves directly from Baltimore to differential territory by the overland route, it undergoes only one such transfer?

A. And that is one of the reasons why the Baltimore Steam Packet Company claims they have to have a differential rate under all-rail.

Q. Which of the transportation operations that we have been discussing do you conceive to be the more expensive, the overland operation via the B&O out of Baltimore, or the joint water-rail operation through Norfolk?

Mr. Claytor: Just a minute. I don't believe this witness is qualified to discuss the matters of cost.

The Witness: That is right. I'm going to tell him that.

By Mr. Keenan:

Q. Finally, Mr. Keeley, with regard to this particular [fol. 781] topic, would you be content to have this Commission decide the rate question in the case before it, so far as Hampton Roads is concerned, on the same basis that Hampton Roads makes rates—that the Norfolk & Western makes rates from Baltimore to differential territory with respect to consignments which have had a prior move on the Baltimore Steam Packet Company?

A. You know, I don't know how to answer that question. It is too involved for my limited intelligence.

Q. Is it okay if we decide this case on the same basis that the Norfolk & Western has made rates with the Baltimore Steam Packet Company?

Mr. Hanifin: Mr. Examiner, I suggest that is an improper question, because we are not going to decide this case, the Commission is going to decide it, and I think the speculation is beyond the witness' competence.

By Mr. Keenan:

Q. What, Mr. Keeley, is the average—did I interrupt something?

What is the average distance, Mr. Keeley, between—no, I don't want an answer—between Norfolk and C.F.A.—what is the difference—withdraw the last question.

What is the difference between the average distance to and from C.F.A. Territory to Norfolk, and the same distance to Baltimore? Is it about 150 miles?

A. Oh, I don't know. I just can't speculate with you [fol. 782] about these things.

Mr. Keenan: I have no further questions.

Exam. Boat: Are there any further questions of the witness?

Mr. Miller: Yes, I have some questions.

Cross examination.

By Mr. Miller:

Q. Mr. Keeley, the principal commodity handled in and out of Hampton Roads ports is coal, isn't it?

A. Oh, yes.

Q. What is the principal competing north Atlantic port for that traffic?

A. I don't believe anybody else is in the running, so far as Hampton Roads is concerned.

Q. What would be the nearest one to it?

A. Anything I would say to you would be just an informed guess. It might be Baltimore.

Q. What is the next most important commodity for Hampton Roads ports?

Mr. Claytor: Do you mean tonnagewise?

By Mr. Miller:

Q. Yes, that would be all right.

A. Grain, I expect.

Q. What is the principal competing port for that?

A. All of the North Atlantic ports, and particularly the Gulf ports. You have no idea what low rates they have established on grain to the Texas and Southwestern Gulf ports.

Q. Now, restricting it to the North Atlantic ports, is it [fol. 783] pretty—is the competition pretty well distributed among them all?

A. Yes.

Q. How about Boston?

A. Boston, I don't think has any elevator.

Q. Boston is not a competitor for the grain?

A. I don't think so. Baltimore has a substantial grain elevator, Albany has, after you said that, Norfolk, Baltimore, and Albany, I think you told the whole story about the elevator facilities on the north Atlantic Coast.

Q. Philadelphia would not be an important competitor for that traffic?

A. I don't know. I don't think so.

Q. What is your next most important commodity after grain?

A. I don't know.

Q. Getting into the general cargo market?

A. That is right.

Q. What is the most important competitor from the standpoint of your general cargo?

A. The other Pocahontas roads?

Q. No, I mean as far as the ports are concerned.

A. The Port of New York.

Q. What is the most important port after that as far as the competitors are concerned?

A. The balance of the North Atlantic ports.

[fol. 784] Q. Is Boston a competitor with Hampton Roads?

A. That is right.

Q. Is it as much of a competitor as Baltimore and Philadelphia?

A. No.

Q. Which is more important competitor for general cargo, Baltimore or Philadelphia?

A. I don't know.

Mr. Claytor: I might say we will have a solicitation man who will be better able to answer this than a rate expert, sir.

By Mr. Miller:

Q. Now, do you need a differential under Baltimore to compete for this general cargo?

A. I just can't answer your question the way you ask it without trying to be impertinent, let me answer it in my own way: We need a differential under New York, and what the rate situation ought to be at Baltimore we leave to the Baltimore lines.

Q. Well, now, suppose that the rates were equalized as between Boston and Newport News, would you have a disadvantage from that situation on the general cargo?

A. I think you intended to say Norfolk, because the Norfolk & Western does not serve Newport News.

Q. Let's call it Norfolk, then.

A. Yes, I don't know how to answer that question. I haven't undertaken to evaluate the competition between Boston standing alone on the one hand and Norfolk on the other hand.

Q. Do you think that your port would be particularly [fol. 785] hurt if Boston had an equalization with your port?

A. I don't know about that.

Mr. Miller: That is all I have. Thank you.

Exam. Boat: Is there any redirect?

Redirect examination.

By Mr. Claytor:

Q. Mr. Keeley, do you know whether there is any substantial movement of traffic at Baltimore via the Baltimore Steam Packet Company and the Norfolk & Western to differential territory? Do you have any idea of the amount of freight involved?

A. No, there is a respectable movement of traffic via the rail-water route, from Baltimore, via Baltimore Steam Packet and Norfolk & Western, to this differential territory.

Q. You don't have any tonnage figures?

A. No.

Mr. Hanifin: Mr. Examiner, I have a question, to be asked by Mr. Claytor.

By Mr. Claytor:

Q. Mr. Keeley, have you just completed an investigation of the total exportation of cigarettes via the various North Atlantic ports for the year 1956?

A. I have.

Q. Would you give for the record—

Exam. Boat: What does this pertain to?

Mr. Claytor: This pertains to a matter of cigarettes which has been brought up several times at this hearing [fol. 786] on cross examination.

Exam. Boat: Was it brought up by this witness?

Mr. Claytor: It does not pertain to anything on the cross examination, I will admit, sir, but this is the proper time to put it in. There is only one question. I think it will save time if we can just do it now and get it over with. We want this material in the record, sir.

Mr. Moerman: Yes, but is it relevant?

Mr. Hanifin: If the Examiner please, he has permitted the Boston interests and other interests to submit additional testimony at this hearing. I see nothing improper about us offering additional testimony at this time. It happens to deal with a matter that relates to the cross examination of mine of Mr. Laux. I think we are entitled to display on the record information which is factually correct and pertinent to the inquiry.

Exam. Boat: I had in mind whether it related to this witness' cross examination.

Well, go ahead.

By Mr. Claytor:

Q. Would you give us the results of that investigation?

Mr. Moerman: I don't know what it is.

Mr. Foley: Is the witness reading from a paper here?

The Witness: Yes, I'm reading from a memorandum I made myself pursuant to a telephone conversation.

[fol. 787] Mr. Claytor: Mr. Keeley is going to show the total movement of cigarettes via New York, Philadelphia, Hampton Roads, during 1956.

Mr. Moerman: From what origin?

Mr. Claytor: From all origins.

Mr. Moerman: Including unaffected territory?

Mr. Claytor: From all origins.

Mr. Moerman: Well, I have no objection.

The Witness: This is in terms of the number of cigarettes. Through the port of New York for the year 1956, and they are all for the year 1956—10,656,616,000. Philadelphia, 151,665,000. Baltimore, 39,650,000. Hampton Roads, 1,299,454,000.

By Mr. Claytor:

Q. One other question. Can you give us a general idea of where the principal manufacturing centers for cigarettes are located?

A. In the Virginia-Carolina Territory, in close proximity to the port of Hampton Roads.

Mr. Claytor: That is all I have.

Recross examination.

By Mr. Moerman:

Q. Isn't it a fact, Mr. Keeley, the bulk of that traffic moves, wherever it moves overland, by truck?

A. Oh, yes, unfortunately.

Mr. Moerman: Thank you, sir.

[fol. 788] Redirect examination.

By Mr. Hanifin:

Q. Mr. Keeley, with respect to Mr. Moerman's inquiry, is the reason it moves by truck to the Port of New York—

Mr. Moerman: Don't lead him, please, whoever is doing it, on redirect, I presume. Ask him if he knows.

Exam. Boat: Ask him if he knows.

By Mr. Hanifin:

Q. Do you have any idea why it moves by truck?

A. I know positively why it moves by truck.

Q. Will you tell us?

A. It is a reason of expedition. It has to go by truck, in order to get there, and goes by Hampton Roads on the way.

Recross examination.

By Mr. Colgren:

Q. Mr. Keeley, are any of these cigarettes warehoused in the New York area?

A. No, not these export cigarettes. There is a tax question involved in that, you recognize that.

Q. Yes, sir. You say there is no warehousing of cigarettes in the New York port area?

A. That is my information.

Mr. Claytor: On export traffic.

The Witness: Export traffic, that is what we are talking about, Mr. Colgren.

Mr. Colgren: I wasn't confining it.

[fol. 789] Mr. Claytor: The witness did not understand your question, Mr. Colgren.

Mr. Colgren: I asked him if there was any warehousing of cigarettes in the New York port area?

The Witness: Domestic cigarettes, yes, export cigarettes, no.

Mr. Colgren: Thank you, sir.

Exam. Boat: Does that complete the cross examination now? Mr. Keeley's exhibit to be received is No. 62.

Mr. Claytor: I understand Exhibit 62 is received in evidence.

Exam. Boat: Correct.

(Protestants' Exhibit No. 62, Witness Keeley, was received in evidence.)

Exam. Boat: The witness is excused.

(Witness excused.)

Exam. Boat: Who is the next witness?

Mr. Walker: I think it is understood my witness may go on next, Mr. Examiner.

Mr. Examiner, I offered three other witnesses who have not been—

Exam. Boat: Who is that, Mr. Walker?

Mr. Walker: Mr. Miller is the one who is going to have to stand cross examination, but I had three other witnesses that filed statements that there has been no request for [fol. 790] cross examination. I thought in order to keep them together we would put those in, too, at this time, if there is no objection.

Miller is about the last one, the only one on the agenda, next to the last one.

Exam. Boat: We seem to be getting out of order here a good deal.

Mr. Walker: That is right.

Exam. Boat: I wish we could adhere to the order more closely. Which are the ones you are going to call?

Mr. Walker: Miller is the only one that has been asked for cross examination.

Exam. Boat: Very well.

Mr. Walker: May I put in the verified statements of three other witnesses who have not been called for cross examination, to keep them all together?

Exam. Boat: Well, that might be well to do that. Are those listed right there, too?

Mr. Walker: No, sir, they are not on this list, because they were not called for cross examination.

Exam. Boat: I have a different list than you do. Do you want to give those first?

Mr. Walker: Yes. I offer at this time the verified statement of David S. Gendell, Director of Planning, Virginia State Port Authority, Norfolk, Virginia.

[fol. 791] Exam. Boat: That will be identified as Exhibit No. 63.

(Exhibit No. 63, Witness Gendell, in support of Protestants, was marked for identification.)

Mr. Walker: I offer at this time the verified statement of A. Stuart Campbell, research economist, Virginia State Port Authority, together with Exhibits B-1, BD-1, B-2, B-3, B-4, and B-5.

Exam. Boat: The exhibit is identified as Exhibit 64.

(Exhibit No. 64, Witness Campbell, in support of Protestants, was marked for identification.)

Mr. Walker: I next offer the verified statement of F. P. Wakefield, Director of Bureau of Transportation, Virginia State Port Authority, Norfolk, with Exhibits W-1 through W-6, inclusive.

Exam. Boat: Those are identified as Exhibit No. 65.

(Exhibit No. 65, Witness Wakefield, in support of Protestants, was marked for identification.)

Mr. Walker: I call to the stand Mr. George E. Miller.

Whereupon, GEORGE E. MILLER was sworn and testified as follows:

Direct examination:

By Mr. Walker:

Q. Will you please state your name, Mr. Miller?

A. George E. Miller.

Q. Are you the same George E. Miller that filed a veri-
[fol. 792] fied statement in this proceeding?

A. Yes, sir.

Mr. Walker: Mr. Examiner, at this time I offer the statement of Mr. Miller.

Exam. Boat: It may be identified as Exhibit No. 66.

(Exhibit No. 66, Witness Miller, in support of Protestants, was marked for identification.)

Mr. Walker: Mr. Miller is offered for cross examination.

Mr. Moerman: Mr. Examiner, I may be able to obviate a somewhat lengthy cross examination of Mr. Miller if you will all turn to page 5 of this testimony.

Beginning at page 5, the question is asked: "Give examples where you have lost cargo that should or could have moved through Virginia ports because of the superior service being offered at the Port of New York."

From then on, for some 22 pages, to page 27, Mr. Miller gives us examples without identifying the companies, and with no more support for the testimony than that there are some records in his office.

To me, this is the same type of hearsay which earlier today you ordered stricken from Mr. Crowl's exhibit. Therefore, I now move that all of the material contained at page 5 through and including page 27 be stricken.

In further support of my motion, I say that in this case, as the record shows, we have submitted a number of state-

[fol. 793] ments of shippers, verified or under oath. It must be apparent that obtaining such statements from people like Allis-Chalmers, Inc., and others, required a considerable effort.

I think it would be unfair in the extreme in this case to permit material of this type, which is unquestionably hearsay, and where we have no opportunity to cross examine those who are the author of the material to be introduced in this record.

I, therefore, have before you the motion to strike this material.

Mr. Foley: Mr. Examiner, I should like to join in that motion of Mr. Moerman's on the same grounds.

Mr. Walker: I wish to answer that, Mr. Examiner.

Exam. Boat: Mr. Walker.

Mr. Walker: In the first place, I think it comes with poor grace for counsel to object to this kind of evidence. In the first place, Mr. Gilman testified that the freight differential took traffic away from New York based on statements of shippers in C.F.A. Territory.

Mr. Laux testified that when talking to shippers, they always refer to the differential of 3 cents against New York, why they don't get the traffic.

Mr. Baylis stated his study was gotten by asking shippers about why traffic was not moving through New York. That is a part of this proceeding, and if we should strike every-[fol. 794] thing in this record that is based on information received in due course of business, we wouldn't have but very little record left.

Now, coming to the competency of the evidence, I don't know whether you want this on the record or not.

Mr. Moerman: Yes, I would like to have it on the record.

Mr. Walker: I would like to hand to the Examiner so he could follow me a little better, a copy of the memorandum, and here is one for you, Mr. Moerman.

If there is one principle of evidence that has been established by the Supreme Court, the federal courts, the state courts, and this Commission, it is that information gained in the regular course of business is competent and not subject to the hearsay rule.

Exam. Boat: Well, have you indicated or shown in this statement of the witness that this material was so obtained—these statements were so procured?

Mr. Walker: Yes, sir, the first two or three pages of his statement shows that, Mr. Examiner.

Exam. Boat: All right.

Mr. Walker: Now I want to call attention to just one or two cases which I think is sufficient.

In Transcontinental Petroleum Company against Interocean Oil Company, 262 Federal 278, the case was almost written for this proceeding. There, it was held that the [fol. 795] testimony of a superintendent of the export department of a large corporation, not of a governmental body like we have here, was not rendered incompetent as hearsay because such knowledge was based on facts connected with the business even though it was gained largely from a third person.

Now, on the next sheet there you will see an excerpt from that opinion, and I might read it:

"Much of what officials of large enterprises know of their operations is necessarily learned"—in the course of business—"and from associates and employees through conferences, conversations, letters, reports, records, and the like. It is upon such information that the business is directed and carried on. Considered narrowly and technically, it might be regarded as proceeding in a considerable measure from hearsay, but absolute firsthand personal knowledge is not as a rule practicable and is not required as an invariable rule of evidence."

Exam. Boat: We can hardly say that about this matter here, can we, Mr. Walker?

Mr. Walker: This is all gained from the records in the files of the Virginia State Port Authority, every bit of it, and the prepared statement shows so, every bit of it.

And in the next case that is cited here, which is a Federal Court case, I won't read it, but there was a case in which a witness tabulated what was shown by the test of 605 holes [fol. 796] in the ground. The government objected to it on the ground that the individuals who bored the holes were not present. This information was gotten together by

copying from the records what those tests showed, and the Court stated as I quote here.

Now getting down to the Commission, in Copley Cement Manufacturing Company against the Atlantic Coast Railroad Company—

Exam. Boat: What is the citation?

Mr. Walker: 300 ICC 13.

The Defendants moved to strike as hearsay evidence the statement of complainant's vice president and sales manager to the effect that competitive price of mortar cement shipped from Portsmouth, Virginia, at which a plant of the Lehigh is located, is determined by our salesmen securing prices from customers, going out and getting prices from customers, who have been quoted prices by Lehigh Cement Company.

The witness was clearly competent to testify, and his testimony sought to be stricken was evidently based on information obtained in the ordinary course of business.

Then there are just all sorts of cases like that.

Exam. Boat: Your motion in substance was an objection, Mr. Moerman. It isn't in the record as yet, so we wouldn't strike it as such.

Mr. Moerman: Oh.

Exam. Boat: The matter—

[fol. 797] Mr. Moerman: The reason I was bringing it up at this time, is that I wanted to obviate an extensive cross examination for some 22 pages which might take several hours, finding out the name of each company and where the information was obtained, and I thought that it is true that I probably should have waited normally until Mr. Walker had offered it. Perhaps he might do it.

Mr. Walker: Mr. Examiner, we do not feel that we are compelled—

Exam. Boat: We won't argue this any more. We don't need this all on the record.

Mr. Moerman: These are not facts connected with the business.

Mr. Walker: I want to say this before you rule.

Exam. Boat: Mr. Walker is apparently not willing to withdraw that.

Mr. Walker: No, sir.

Exam. Boat: So we will have to proceed, that is the only thing we can do.

Off the record.

(Discussion off the record.)

[fol. 798] Exam. Boat: On the record.

Mr. Moerman: I want to announce in view of the discussion on the record, and in view of the fact that I have examined Mr. Miller's testimony more closely, following the time when we made a request to have him here for cross-examination, at this time I want to announce I have no cross-examination for Mr. Miller.

Mr. Walker: Thank you, sir.

Exam. Boat: Anyone else?

Mr. Miller will cross examine Mr. Miller.

The Witness: This is going to be good, Miller v. Miller.

Cross examination.

By Mr. Miller:

Q. In your investigations of shippers' desires as to ports to be used, did you find that there were any preferences over Hampton Roads ports for any of the New England ports?

A. What do you mean by New England ports?

Q. Boston, for instance.

A. Boston, no, sir.

Q. Portland?

A. No, sir.

Q. Any of the Rhode Island ports?

A. No, sir.

Q. How about Albany?

A. No, sir.

[fol. 799] Q. Now, to get away from the northern ports, did you get similar preferences for Philadelphia?

A. Not that I recall.

Q. How about Baltimore?

A. Baltimore, yes.

Q. Would you say, then, that Baltimore is your principal competitor?

A. No, I wouldn't say that.

Q. After New York?

A. Possibly after New York, yes, sir.

Q. Does the Virginia State Ports Authority have any objection to equalization of rates as between the Hampton Roads ports and Boston?

Mr. Walker: I don't think that is a proper question to ask this witness. I therefore object to it.

Mr. Miller: That is one of the issues of the case.

Exam. Boat: I didn't hear the question.

Will you read it, Mr. Reporter?

(Question read.)

Mr. Walker: He didn't testify on direct anything about that. But if he wants to answer it, I will withdraw my objection.

Exam. Boat: Very well.

The Witness: We would like to have the differentials preserved under the Boston or the New York rates.

[fol. 800] By Mr. Miller:

Q. Now, is that answer, though, based principally upon your desire to have the port relationships remain as they are with respect to New York?

A. Well, if New York and Boston are on the same level, then we would like to preserve those differentials under both New York and Boston.

Mr. Miller: I have no further questions.

Mr. Walker: I offer—

Exam. Boat: That seems to be all on cross.

Mr. Walker: Any more cross?

(No response.)

OFFERS IN EVIDENCE

Mr. Walker: I offer the exhibit I had identified, Mr. Examiner, and ask it be received.

Mr. Moerman: At this time, Mr. Examiner, I move formally to strike the material beginning at page 5, with the first answer, through page 27, down to the point marked

"free time," on the ground that this is hearsay, that the material is taken allegedly from letters or files, that we don't have here the people who gave the information, and on the further ground as stated on this record that counsel declines to produce the identities of the shippers who gave this information.

I think it would indeed be a very serious matter if in proceedings before the Commission as important as they are, records could be made with this type of material where a hearing officer has the responsibility of deciding what the [fol. 801] facts are and recommending a conclusion of law, and even more serious, if the Commission itself on review must have this type of material before it for a decision of its case, and even more serious, if the courts in reviewing these decisions must have before it Commission decisions based on this type of uncorroborated material, where counsel had had no opportunity to cross-examine with respect to the accuracy of the facts given.

I concede that any officer of any company may come in and testify concerning facts gained by him in the pursuit of his business, but that he may not come in and testify concerning alleged facts given to him by somebody else about which the officer does not have his own personal knowledge, but alleged facts which were taken from some document which is not here.

Mr. Walker: It is just too bad counsel doesn't agree with the courts and the Commission on that subject, Mr. Examiner.

Exam. Boat: I take it, Mr. Moerman is objecting to the receipt of that evidence, some authorities have been cited in support of the propriety of such statements, and I think it is a matter that the Commission may well wish to consider. And I will overrule the objection and the exhibit will be received.

(Exhibit No. 66, Witness Miller, in support of Protestants, was received in evidence.)

Mr. Walker: I stated on the record we have these original reports here.

Exam. Boat: I received the exhibit, Mr. Walker.

[fol. 802] Mr. Walker: All right.

Exam. Boat: You are excused.

(Witness excused.)

Mr. Hanifin: If the Examiner please, it seems some of this discussion was off the record.

Exam. Boat: No, I think I had enough on the record.

Mr. Hanifin: All right.

Mr. Colgren: Mr. Examiner, I want the record clearly to show our understanding of the fact that the witness would not give answers as to the authors of these letters purportedly backing up his statement.

Exam. Boat: I understood that to be the case.

Mr. Colgren: Yes, sir. May the record show that the respondent railroads join in the motion offered by Counsel Moerman?

Mr. Walker: Can you read that back? I didn't understand it.

(Statement read.)

Mr. Walker: That statement of Mr. Colgren is not exactly right.

I offered to show the original records to counsel in this proceeding, which is the general practice, I understand, in cases of this sort, and he can look at the shipments all he wants to and read the original records, but I cannot make the original records a part of the proceeding because [fol. 803] it is confidential.

Mr. Foley: As I understand it, the statement is made we can look at the records but the Commission and the Examiner could not.

Mr. Walker: The Examiner can have them, I will give them to him. I won't give them to your shippers, though.

Exam. Boat: He wouldn't put them into this record.

Mr. Foley: That is right.

Exam. Boat: That is right.

Mr. Foley: We feel they ought to be in the record.

Mr. Keenan: It can't be the basis of the Commission decision.

Exam. Boat: Mr. Reporter, I didn't indicate on the record we should have received Exhibits 63 through 66, inclusive. They are so received.

(Exhibit No. 63, Witness Gendell; No. 64, Witness Campbell; 65, Witness Wakefield, and No. 66, Witness Miller, in support of Protestants, were received in evidence.)

Mr. Pratt: I call Mr. Leonard A. Drake.

LEONARD A. DRAKE was sworn and testified as follows:

Direct examination.

By Mr. Pratt:

Q. Will you state your name and connection?

A. Leonard A. Drake, Executive Director of the Eco- [fol. 804] nomics and Tax Assurance Council, Chamber of Commerce of Greater Philadelphia.

Q. Are you the Leonard A. Drake that attested a prepared statement of six pages, to which are attached Exhibits numbered PCC-1 through 7? Are you that Leonard A. Drake?

A. I am.

Mr. Pratt: Would you identify it, Mr. Examiner?

Exam. Boat: Yes. I will identify that as Exhibit No. 67.

(Exhibit No. 67, Witness Drake, in support of Protestants, was marked for identification.)

Mr. Pratt: Offered for cross-examination.

Cross examination.

By Mr. Miller:

Q. Mr. Drake, I don't find in your statement anywhere an indication of the position that the Chamber of Commerce of Greater Philadelphia is taking with respect to the issues in this case.

Is your Chamber in favor of the equalization, or what?

A. No. We are opposed to the equalization of rates.

Q. Is it your position that the present differential should be preserved?

A. That is correct.

Q. On page 5 of your statement, you have this sentence:

"It is obvious that the differential rates have not influenced the movement of general cargo in favor of the Port of Philadelphia."

[fol. 805] Suppose that Philadelphia had the same basis of rates as Baltimore, do you suppose that might influence the movement of general cargo to the Port of Philadelphia?

A. Pardon me, I was looking for the statement here.

Q. At the end of the top paragraph.

A. The top paragraph?

Q. Yes.

A. It is obvious the differential rates have not influenced the movement of general cargo in favor of the Port of Philadelphia.

Q. That is right.

Suppose you had rate equalization with Baltimore; in other words, your rates were reduced perhaps 2 cents a hundred pounds under their present basis, that you had equality with Baltimore and Newport News to and from differential territory.

Don't you suppose that might influence the movement of general cargo in favor of the Port of Philadelphia?

Mr. Pratt: I am going to object to that question. This man is not qualified as a rate man at all; he is qualified as an economist. He has offered testimony as to fact. He has shown no qualification to have an opinion on this subject.

Exam. Boat: I don't have a copy of his statement, coming out of order here.

Mr. Miller: It is on page 5, the last sentence of the paragraph ending at the top of the page. The man is talking about rates.

[fol. 806] Mr. Pratt: The man is talking about—

Exam. Boat: His testimony doesn't go into the matter of rates very much but—

Mr. Miller: It goes into differentials of rates, that is all I am talking about. I am not asking about a rate on a particular commodity.

Mr. Pratt: He has not mentioned rates except for the economic result in the past of what has existed.

Mr. Miller: That is all I am asking.

By Mr. Miller:

Q. Economically, what will happen?

A. I am testifying—

Mr. Pratt: Wait for a ruling.

Exam. Boat: I will overrule that. I think he can state an answer to that.

The Witness: I am testifying here relative to—

Exam. Boat: Are you answering the question?

The Witness: You are asking the question relative to my opinion as to the equalization of rates between Baltimore and Philadelphia?

By Mr. Miller:

Q. Yes.

A. I have no opinion on that subject.

Q. Do I understand by that that you have no opinion, then, as to what the effect of equalization of rates would have in the future in any respect?

A. Between Baltimore and Philadelphia?

[fol. 807] Q. Between Philadelphia and the other ports.

A. What I'm testifying to is that the differential rates now existing between New York, Boston, and Philadelphia, have not influenced the movement of general cargo in favor of the Port of Philadelphia.

Q. But you have no opinion whatsoever as to what will happen in the future if any of these rates are changed; is that right? Yes or no?

A. No.

Q. Now, dropping down to the next paragraph, and the sentence at the end of that paragraph, you say, "As I have shown, the total movement of general cargo through the Port of Philadelphia has declined both absolutely and in relation to the Port of New York."

Now, generally speaking, Philadelphia has, as far as the rates in issue here are concerned, some differential under the Port of New York; is that not so?

A. Yes.

Q. Well, now, if your movement of general cargo is declining, the differential is not doing you any good, is that right?

Mr. Pratt: The same objection. I don't think this man is qualified to answer.

Exam. Boat: Well, he is going into the question of differentials and the influence they have. I think he can answer it.

[fol. 808] The Witness: It is my opinion that free lighterage is a serious barrier to Philadelphia versus New York.

By Mr. Miller:

Q. It is not differentialities at all, it is free lighterage, is that right?

A. That is one factor. You asked me my opinion.

Q. Let's stick to the differentials, then.

A. All right. But there are other things that affect the traffic. You are trying to pin it down to one factor, just differentials. I assure you there are others that affect this traffic picture.

Q. Well, do you have any opinion as to whether the differential between Philadelphia and New York has had in the past any benefits to Philadelphia?

A. Yes, it has the benefit of partially offsetting the free lighterage which New York enjoys.

Q. But do I understand, then, that that differential is inadequate?

Mr. Pratt: The same objection, for the same reason.

Exam. Boat: Overruled.

The Witness: I don't know whether it is inadequate or not.

By Mr. Miller:

Q. You just said it partially offset.

A. That is right. I believe personally that it is a partial offset. Whether it is a complete offset, I have no way of saying.

Q. Turning now to page 3 of your testimony, you refer [fol. 809] to your Exhibit 1, which shows the growth in population of the Philadelphia area.

What relevance do those facts have to the issues in this case?

A. We have shown that Philadelphia has been growing at a rapid pace, which economically would warrant our staying at least even with New York, and I think actually gaining a bit on the New York area.

Our rate of population growth is a little faster than that of New York. So the accompanying testimony that actually New York has been gaining in recent years in port traffic in this general cargo-type port traffic, goes contrary to our economic expansion in the Greater Philadelphia area.

Q. This import-export traffic just goes through Philadelphia, doesn't it? It doesn't stop there?

A. A great deal of the import-export traffic is, we firmly believe, generated by Greater Philadelphia itself, which has a population of nearly 5 million within our 11-county metropolitan area.

Q. What traffic is generated?

A. Much of the general type of traffic, machinery, all sorts of produced and manufactured goods, and we are one of the major manufacturing centers of the United States.

Exam. Boat: You are speaking now of traffic that is produced in or consumed in the Philadelphia area?

[fol. 810] The Witness: That is correct.

By Mr. Miller:

Q. You understand, do you not, the traffic that is at issue in this case is traffic that is moving to and from the Central Western territories, don't you, generally?

A. I believe it also includes traffic which is in part generated by the Philadelphia area.

Q. Perhaps your counsel will tell you that is not so.

Mr. Pratt: I would. I have already told you many times this man is not qualified to talk about the rates.

Mr. Miller: We are not talking about rates, we are talking about the issues of the case. He seems to—I'm just trying to find out what the relevance of this exhibit is.

By Mr. Miller:

Q. Maybe he didn't know the issues of the case when he prepared it.

A. No, I appreciate that you are discussing the rates—
Q. Let me ask you this—

Mr. Pratt: Are you going to object to the relevance of the exhibit?
Mr. Miller: Sure.

By Mr. Miller:

Q. Let me ask you this: if you had known none of this traffic was generated that was at issue in this case in the Philadelphia area, would you have considered that Exhibit 1 of any relevance?
A. Yes. I think the very fact we are a port is of great relevance to our case. The port itself generates employ-
[fol. 811] ment. It is part of the reason for Philadelphia being a center of five million people.
Q. I think I heard you say you thought Philadelphia had grown a little faster than New York, is that right?
A. That is right.
Q. So apparently you are not being hurt very much?
A. In that sense we would be, as we see it, if we lost the differential. That is our case.
Q. I thought just a few minutes ago you refused to tell me what would happen if you lost the differential.
A. I refused to give an opinion as to what degree of injury there would be, but our case is certainly we would be injured.

Mr. Miller: Those are all the questions I have, Mr. Examiner.
I am going to object to the portion of the statement—
Mr. Keenan: May I ask a couple of questions, if it is appropriate to do so now?
Exam. Boat: Yes.

By Mr. Keenan:

Q. Mr. Drake, do I recall—let me put it this way: was your counsel correct when he advised us that you were a competent economist?
A. Pardon?
Q. Was your counsel correct when he advised us you

were a competent economist and not a rate man, as a witness here?

A. He is correct in saying I am not a rate man.

[fol. 812] Q. Are you an economist?

A. You have this exhibit, I believe, in front of you. It is so stated.

Q. Yes.

Has the information that you have acquired as an economist included any information of the manner in which grain is marketed from the United States to a foreign market?

A. Yes, sir.

Q. Is some grain sold by the Commodity Credit Corporation to foreign buyers?

A. I haven't that much information. I am not a specialist in the sale of grain.

Q. Do you know whether the Commodity Credit Corporation sells grain?

A. I am not familiar with the details of that operation.

Q. Maybe you meant to, but you didn't with great clarity answer my question.

It was merely, do you know whether the Commodity Credit Corporation sells grain?

A. No, I don't.

Q. You don't?

A. No.

Q. Do you know whether any grain that moves through Philadelphia is grain that is sold by the Commodity Credit Corporation?

[fol. 813] A. I had first answered your question, I don't know the details of the work of the Commodity Credit Corporation.

Q. Is perhaps this one of the reasons why you left grain out of your traffic exhibits, Mr. Drake?

A. No, it is because New York left it out of theirs.

Q. Do you know Frederick R. Mann?

A. Yes, I do.

Q. Is he associated with the Philadelphia Chamber of Commerce?

A. He is not.

Q. Is he a director of something called the Philadelphia Commerce?

A. He is Director of the Department of Commerce of the City of Philadelphia.

Q. Oh, I see.

As such, is he a municipal employee of the City of Philadelphia?

A. He is.

Q. Where are his offices, do you happen to remember?

A. City Hall, Philadelphia.

Mr. Keenan: I have no further questions—wait a minute.

Mr. Colgren: Just as a matter of clarification for the record, may it show grain was included in the traffic statistics of the respondent railroads?

OFFER IN EVIDENCE

Exam. Boat: Do you offer the exhibit?

Mr. Pratt: Yes, I offer the Exhibit 67 in evidence.

[fol. 814] Mr. Miller: Mr. Examiner, I object to the receipt of the first three exhibits, and the statements about them on pages 3 and 4 of the testimony, on the ground they are not relevant to the proceeding.

Mr. Pratt: If the Examiner please, these three exhibits to which counsel objects certainly they show the economic position of the Port of Philadelphia, which is one of the things to be protected in this proceeding.

In the protest, we pointed to the economic effect that would result to the Port of Philadelphia, and the dependence on the port, and it is one of the bases for our protest in this proceeding.

Exam. Boat: The objection is overruled. The exhibit is received as No. 67.

(Exhibit No. 67, Witness Drake, in support of Protestants, was received in evidence.)

Exam. Boat: You are excused.

(Witness excused.)

Mr. Hanifin: We are prepared now to follow the order of presentation.

Exam. Boat: Very well.
Shall we recess for ten minutes?
Mr. Hanifin: All right.
Exam. Boat: Come back at 3:30.

(Short recess.)

[fol. 815] Exam. Boat: Come to order, please, gentlemen.

T. JEFFERSON, JR. was sworn and testified as follows:

Mr. Keenan: Before we talk to Mr. Jefferson, I have a small item of business I would like to suggest for your consideration.

Exam. Boat: Very well.

Mr. Keenan: I have been advised Mr. Mann, who has been the subject of discussion by some witnesses, is a man who knows about the Commodity Credit grain situation which is of interest to me anyway in this case.

I shall not, unless counsel requests, detail my knowledge of it, because I think it would be improper to put facts in the record through counsel.

However, I should like to request a subpoena directed to him, that is Frederick R. Mann, Director of the Department of Commerce of the City of Philadelphia, with offices at City Hall, Philadelphia, returnable at the same time that Mr. Langdon has requested the subpoena of Mr. Binney to be returnable.

Exam. Boat: That is March 25?

Mr. Keenan: Yes, sir.

Mr. Langdon: Mr. Examiner, let's see if we can't handle this without a subpoena. I am quite sure after consulting with the Philadelphia people we can produce this witness [fol. 816] without a subpoena.

Mr. Keenan: I am more than glad to accept that assurance and withdraw the request.

Mr. Pratt: The attorney was down here yesterday.

Mr. Keenan: Wonderful. We will concur in the date of March 25, or a date reasonably satisfactory with Mr. Mann.

Exam. Boat: We will continue with Mr. Jefferson.

Direct examination.

By Mr. Hanifin:

Q. Mr. Jefferson, have you been sworn?

A. Yes, sir.

Q. Have you prepared for introduction in this proceeding, testimony and exhibits?

A. I have.

Mr. Hanifin: Let the record show that a copy of Mr. Jefferson's verified statement and accompanying exhibits have been handed to the reporter.

Mr. Examiner, may we have that marked for identification, please?

Exam. Boat: The verified statement and attached exhibits may be identified as Exhibit No. 68.

(Protestant's Exhibit No. 68, Witness Jefferson, was marked for identification.)

Mr. Hanifin: Mr. Jefferson is tendered for cross-examination.

[fol. 817] Cross examination.

By Mr. Keenan:

Q. Mr. Jefferson, at page 2 of your verified statement, you make the assertion that the fact that the Baltimore basis emanated as the standard for the rates from a portion of central territory is not significant insofar as Baltimore and Hampton Roads are concerned.

Do you mean to imply by this that Hampton Roads railroads, and more specifically the C&O, would be content to accept an ICC order requiring its differential territory rates to exceed the Baltimore basis, although at a level below New York?

A. I do not mean to imply that.

Q. And why would that be undesirable from the C&O's point of view?

A. Our main competition—well, I probably should preface my remark by saying to you this: we have a wonderful

railroad of over 5,000 miles, the major portion of which is in central territory. It is our desire to obtain all the business we can at our own port of Newport News, Virginia. We don't want any handicaps that are not justified.

Q. Is it a fact, then—

A. I probably should add to that, also: with respect to the New York situation—

Q. I don't think you should add anything right now with respect to the New York situation, Mr. Jefferson, because I had not inquired concerning it.

[fol. 818] You certainly may on redirect examination.

Is it a fact, then, Mr. Jefferson, that a rate differential at Hampton Roads over Baltimore, such as I have just described would, in your opinion, constitute an unjustified handicap of Hampton Roads?

A. I don't know of any reason why Baltimore should have a lower rate than we should have.

Mr. Keenan: May the question be read?

The Witness: I think that answers your question.

Mr. Keenan: I'm afraid it doesn't.

Exam. Boat: Will you read the question, please, Mr. Reporter?

(Question read.)

The Witness: I would say yes.

By Mr. Keenan:

Q. Is it a fact, then,—what was the witness' answer? Did he say he would say yes?

Mr. Foley: Yes.

By Mr. Keenan:

Q. Is it a fact, also, then, Mr. Jefferson, this type of rate differential would operate to prevent the Hampton Roads railroads from, to use your words, obtaining all the business you can?

A. Yes. You are asking me in effect if letting Baltimore have a lower rate than we would have would harm us? The answer is yes.

Q. When you said at page 2 of the statement I originally

[fol. 819] quoted to you, did you mean to imply that the Baltimore basis emanated as a standard for the rates from a portion of central territory? Did you mean to imply that that fact is not significant insofar as Boston and Hampton Roads are concerned?

A. I think you should let me couple up that particular sentence with the remaining sentence there, which is certainly in accord with that sentence.

I should go on to say that we regard New York as the primary competition as compared with Baltimore.

Q. What I meant to inquire, Mr. Jefferson—

A. To get me—let me give you the proper answer.

Q. Excuse me, Mr. Jefferson, you just can't talk when a lawyer or examiner doesn't want you to talk on the stand.

A. The Examiner hasn't said a word.

Mr. Keenan: Mr. Examiner, may the witness be instructed not to volunteer information unless there is a question pending or unless there is a question asked? I object to what the witness is in the course of saying.

Exam. Boat: I think we ought to observe that procedure. Let's have the questions short and to the point, and have the answers responsive to the question.

Mr. Hanifin: It is also understood, Mr. Examiner, the witness should be permitted to finish his answer, too, isn't that so?

Exam. Boat: Yes.

[fol. 820] By Mr. Keenan:

Q. Mr. Jefferson, you point out at page 2 of your verified statement—and as you have just said—that the prime consideration has been the maintenance of rates which will permit Hampton Roads to compete with New York. And you say, it was competition with New York that engendered the need for the placement of the rates to and from Hampton Roads on the same differentials under New York that applied to Baltimore.

Am I correct in assuming that your Exhibit TJF, to which you referred at page 9 of your verified statement, is introduced, among other things, for the purpose of bearing this proposition out?

A. That was for the purpose of showing the types of

traffic one port versus the other in a measure, the answer to your question is yes.

Q. You show, don't you, for each commodity category, you show in TJF, the degree to which New York has succeeded in attracting more traffic than Hampton Roads, right?

A. And the types of traffic, one versus what the other got.

Q. You show the converse situation when it applies, when Hampton Roads has succeeded in a given type of traffic in attracting more than has New York, right?

A. Yes, sir.

Q. For instance, Hampton Roads hasn't been able to compete with New York for bananas, according to this [fol. 821] Item No. 51, because Hampton Roads got none, right?

A. I assume you are reading it correctly.

Q. Well, I wish you would refer to it and confirm it.

A. Where is it?

Q. I am talking about your Exhibit TJF, Item 51.

A. Item 51?

Q. Yes, sir.

A. That is what it shows.

Q. Yes.

And New York got 3659 more tons of forest products, NOS, that is No. 499, than—and Hampton Roads, 492 tons, right?

A. New York got 7953; is that what you said?

Q. New York got—

A. I don't think that is what you said.

Q. New York got 3659 tons more than Hampton Roads, is that right?

A. That is correct, yes.

Q. And Hampton Roads got 4294 tons?

A. Yes.

Q. In the commodity categories where New York's tonnage exceeds Hampton Roads, the total by which New York beats Hampton Roads, if you will allow me to use that terminology, is 564,680 tons in a year, right—as shown on page 6 of your TJF?

A. That is what the exhibit shows, insofar as the com-

[fol. 822] modities are concerned which New York got the most.

Q. Whereas Hampton Roads, in the other commodity categories, exceeds New York only by 211,347 tons in a year, right?

A. That is correct.

Mr. Hanifin: For clarification, may I inquire if that is only import traffic tonnages you are referring to, Mr. Keenan?

Mr. Keenan: Certainly.

Mr. Hanifin: Thank you, sir.

Mr. Keenan: You are welcome.

By Mr. Keenan:

Q. Hence, your conclusion follows, do I understand correctly, as you say on page 2 of your verified statement, it is competition with New York which has engendered the need for the placement of Hampton Roads' rates on the same differentials under New York that apply at Baltimore, right?

A. Yes.

Q. Now, it is true, isn't it, I guess as you pointed out, that in some of these categories Hampton Roads has done better than New York. Your exhibit says that, and you are surely willing to admit it.

A. The exhibit speaks for itself.

Q. An example of this would be Commodity No. 319, wouldn't it?

A. I'm willing to let the exhibit speak for itself on what it shows, if that will save any time. The exhibit is supposed to contain figures which were taken from other exhibits that have been entered into the record. I don't know [fol. 823] why we should go over each one.

Q. Well, on this particular commodity, 319, ores and concentrates, NOS, New York—may we suspend for one minute, Mr. Examiner?

Oh, yes, thank you so much.

On this Commodity 319, ores and concentrates, NOS, is a conclusion fair from your exhibit that New York has not been competitive with Hampton Roads?

A. When you get to talking about individual commodities, Mr. Lawyer, where what port is used is in many cases dependent on what the destination is, what the facilities at the ports are, and so forth.

I don't understand New York is equipped—not as bad off as Boston—but I don't understand they are equipped with facilities to handle ore as we are at Newport News.

Q. Mr. Jefferson, on these ores that we have been talking about, No. 319, with which port in your opinion is New York having the most trouble in competing, Hampton Roads or Baltimore?

A. I don't understand they have trouble competing with any ports on this type of traffic to amount to anything. I may be wrong on that, but I think that is a correct statement.

Q. It has facilities to handle fertilizers, No. 539?

A. New York?

Q. Yes.

[fol. 824] A. I am not familiar with whether they have or not.

Q. Well, it appears they handle some from your exhibit.

A. They handled 3,145 tons in this period.

Q. Yes.

New York has not what you might call been overly competitive with Hampton Roads on this commodity, has it, because Hampton Roads has handled 800 more tons a year than New York, right?

A. That is what it says.

Q. Now, on this commodity, fertilizers, No. 539, with which port in your opinion has New York had the most trouble in competing, Hampton Roads or Baltimore?

A. I don't know what the Baltimore figures are. I haven't got them down here.

Q. Well, just to make sure the record is clear on the matter, please refer to—I should like to find out whether some information in Mr. Mollman's MLM-5 is contrary to any information you have.

A. It is not supposed to be contrary.

Mr. Keenan: May the witness be instructed not to volunteer information until a question has been asked, Mr. Examiner? I have not finished asking my question.

The Witness: Mr. Examiner, I merely wanted to indicate that if there was a controversy, it was in New York—

Mr. Keenan: Just one minute.

[fol. 825] If the Examiner wants you to speak, I am the most eager person in the room for you to speak. But until that happens, I think you must refrain.

Mr. Macleay: Mr. Examiner, may I suggest that if counsel wants to be technical, he be instructed not to address any remark to the witness except in the form of a question?

Mr. Hanifin: That is just what I had on my mind. I thought the observations he makes are just as improper.

Exam. Boat: We will have no further exchange here on unnecessary matter.

By Mr. Keenan:

Q. Mr. Jefferson, on page 4, on the second line of the import section of Mr. Mollman's MLM-5, I find a commodity referred to as No. 539, fertilizers, NOS.

Is that the same commodity to which your exhibit TJF, page 4, refers to when it describes a commodity with the same number and the same description?

A. I have forgotten what page you said. What page did you say it was on?

Q. I said page 4 of the import section of Mr. Mollman's MLM-5.

A. What is the number again, please?

Q. 539.

A. That is supposed to be the same one.

Q. Now,—

A. It shows the same figure.

Q. Yes.

[fol. 826] Is it in accord with your information, Mr. Jefferson, that Hampton Roads is handled about 31 percent of the tonnage in that category?

A. I wouldn't question what this exhibit shows.

Q. This exhibit also shows that Baltimore is handling 37.3 percent, and New York only 24.8 percent.

Assuming that this information is correct, and reliable, on the basis of it, as a traffic man, can you tell me with which port New York is having the most trouble in com-

peting to get this particular traffic, Hampton Roads or Baltimore?

A. You can't look at any one commodity without knowing where it is going or the circumstances and tell whether we could compete at all for this tonnage that New York got, or whether New York could compete at all for the tonnage that we got.

Q. Well, do I misunderstand your position in this case, Mr. Jefferson?

Do you feel that the volume of traffic moving through a port has nothing to do with the issues now before the Commission to which you have addressed yourself in writing up your evidence?

A. I think it does. I think the total volume, yes, the individual volumes is what I am saying the answer is no.

Q. Your proposition is the volume of all the commodities put together is important, but when we get down to cases on a given commodity, we should ignore volume; is that right?

[fol. 827] A. No. I said I do not know the details with respect to this fertilizer.

Q. I am not asking you to tell me anything about the details with respect to the fertilizer, because I am asking you to assume the truth of the facts reflected by page 4 of the import section of MLM-5.

On the basis of those facts, is the conclusion fair, that New York is having the most trouble with Baltimore in competing for these fertilizers and not Hampton Roads, because Baltimore has 37.3 percent and Hampton Roads only 31 percent? This is a simple proposition, I don't see why we should argue about it.

A. I am willing to concede Baltimore got the most of this business for this period.

Q. But in your opinion this has nothing to do with the evaluating of the competitive relationships between these three ports we have been talking about, New York, Baltimore and Hampton Roads?

A. I don't say it has nothing to do with it. I think as a part of the total volume, it does have something to do with it.

Q. Now, for clarity in the record, will you confirm my

conclusion, my review of the evidence, that the same type of situation obtains with regard to commodities 539, wood pulp, as reflected in your exhibit—

[fol. 828] A. 539 is fertilizer.

Q. Excuse me, 653; which is wood pulp, 693, which is glass, and 735, which is rope and cordage.

A. I'll let the exhibit speak for itself on that subject.

Q. Well, you and I have some difficulty interpreting what this exhibit means, Mr. Jefferson, and it is precisely because we are not evidently in complete agreement as to what conclusions should be drawn from it that I think it is worth while to have your advice in the record.

Mr. Hanifin: Mr. Examiner, I object to the question, because it is arguing with the witness.

Mr. Keenan: I withdraw it. I certainly didn't mean to argue. I only meant to explain why the question is being asked, and you are perfectly right, Mr. Hanifin, I shouldn't do it.

The witness isn't entitled to the explanation.

By Mr. Keenan:

Q. Even though Hampton Roads has outdone New York on these commodities to which I have just referred, its most difficult competition is Baltimore and Philadelphia, and not New York, right?

A. I think I can make a statement of our position that should satisfy you.

Q. I doubt this, but go ahead.

A. We have a large railroad, as I have just explained. Our railroad has an efficient export-import sales and ser-

[fol. 829] vice department. To give you an example of how definitely we feel that New York City has substantial control over all of the tonnage, the majority of the tonnage, a vast majority of the tonnage that goes through North Atlantic ports, we have had the headquarters of that world commerce department of the Chesapeake and Ohio Railway located at New York ever since I can remember.

The many reasons—

Q. Just a minute, sir, please. You can continue if the Examiner will let you.

Mr. Keenan: Mr. Examiner, I think the witness will have to be requested not to continue with his volunteered statement because, first of all, I don't think it is relevant; and secondly, it hasn't been within the area I have been talking about at all, where their world commerce department is.

Exam. Boat: It looks like you will have to continue by asking questions.

Mr. Keenan: I think that is probably the wiser course.

By Mr. Keenan:

Q. Now, Mr. Jefferson, aren't there similar groups of tonnages in your TJF where Hampton Roads has been outdone by New York, where New York has got more tonnage than Hampton Roads?

A. Yes, sir.

Q. But where Hampton Roads' most difficult competition has not been New York, but either Baltimore or Philadel- [fol. 830] phia? Is there any doubt in your mind about that?

A. There are some tonnages that the majority go through one port, the others, the majority goes through the other.

Q. My question was, are there some tonnages where Hampton Roads' most difficult competition has been not with New York but either Baltimore or Philadelphia?

A. I don't question that.

Q. Now, just for the record, I should like you to tell me whether some of these commodities don't fall within that category. I am referring now, of course, to the commodity numbers and descriptions listed on your TJF, beginning on the first page.

No. 31, right?

Mr. Hanifin: E or F?

Mr. Keenan: I'm on the first page of TJF, No. 31.

By Mr. Keenan:

Q. You will find that reported on page 5, at line 3 of Mr. Mollman's exhibit.

A. You want me to look back at that? If you are reading from that, I will accept whatever it says.

Q. Well, what I'm asking you is whether the commodities I'm identifying to you are not the commodities you and I have not just now been discussing, with regard to which Hampton Roads' most difficult competition has not been New York but either Baltimore or Philadelphia?

Mr. Hanifin: Mr. Examiner, I object. It seems to me this [fol. 831] line of cross-questioning is predicated entirely upon the fact that there may be or may not be a larger amount of tonnage through any particular given port.

We will stipulate the fact that as stated in Mr. Mollman's exhibit, it is correct, that insofar as drawing inferences from it, I think that is something that is hardly relevant here at this time.

Mr. Keenan: The witness has advised me, Mr. Examiner, that he draws the conclusion from this exhibit that the prime consideration has been and is now the necessity for the maintenance of rates to and from Hampton Roads, which would permit some measure of competition with the Port of New York.

And this exhibit, he says, supports the proposition that Hampton Roads' primary necessity is differentials under New York, and it doesn't matter whether Hampton Roads has to deal with Baltimore or not.

Now, it just doesn't follow from the facts, in my opinion —of course, that opinion is far from evidence—this interrogation is merely to establish the facts that do bear on that, and to determine whether there is a discrepancy between the facts and the conclusion that Mr. Jefferson draws from it.

Mr. Hanifin: Mr. Examiner, I submit that is precisely a matter which should be handled on brief, rather than going through the detail of finding, in which instance which port had the major amount of traffic.

[fol. 832] It is all here laid out for us in a factual manner, and it seems to me to be an unnecessary burden on the record to simply—

Exam. Boat: If the only purpose is to point out those particular categories of traffic, Mr. Keenan, I think the evidence will disclose that without putting it on the record.

The statement itself will show where the preponderance of the traffic occurs.

Mr. Keenan: Mr. Examiner, I should like to accept your advice or ruling, whichever it is.

I wonder if I may be indulged just so we may have a convenient record for the purpose of reading it over and briefing it, just reading the 13 or 14 numbers that I note? I don't mean to suggest them as evidence at all—that I note that might fall within the category we have been discussing?

Exam Boat: Very well.

Mr. Keenan: Referring to TJF, I have reference to Commodity Nos. 31, see Mollman page 5, line 3; Commodity 51, see Mollman page 3, line 29. Commodity 61, see Mollman, page 4, line 15.

Commodity 235, see Mollman page 4, line 21.

Commodity 319, see Mollman page 5, line 1.

323, see Mollman page 5, line 5.

339, see Molman page 4, line 31.

411, see Mollman page 4, line 22.

[fol. 833] 499, see Mollman page 4, line 13.

527, see Mollman page 4, line 14.

533, see Mollman page 3, line 39.

539, see Mollman page 4, line 2.

545, see Mollman page 3, line 32.

Commodity 555, see Mollman page 4, line 25.

569, see Mollman page 4, line 24.

Commodity 573, see Mollman 4, line 2—Line 20.

Commodity 577, see Mollman page 4, line 8.

Commodity 581, see Mollman page 4, line 10.

Commodity 583, see Mollman page 3, line 37.

Commodity 587, see Mollman page 4, line 1.

Commodity 639—

Exam. Boat: We have about 15 already. I thought you said there were 13.

The Witness: He is still going strong.

Mr. Keenan: I underestimated, I am afraid, Mr. Examiner. I have by actual count 12 to go.

Mr. Gillan: Mr. Examiner, I haven't said anything in this hearing so far, but apparently this cross-play of counsel has gone just a little too far for the bounds of reason.

Mr. Walker earlier made a statement—

Exam. Boat: Do you have an objection?

Mr. Gillan: I have an objection.

Exam. Boat: To the question asked?

[fol. 834] Mr. Gillan: To the question and the procedure being employed now. I am buying this record also, and interested in keeping the wordage down within reasonable limits.

Exam. Boat: I think this identification will be helpful. We can spot these items easier.

Mr. Keenan: It has been hours' work to put these together, and somebody else that wants to do it, will appreciate the correlation.

Mr. Langdon: This is just a waste of time.

Mr. Hanifin: If the Examiner please, I would like to make one observation, since this thing is now beyond the stage of cross-examination with the introduction of evidence by counsel, I think as a matter of fact in all propriety this should be put in by his own witness, not by himself on this record.

I frankly object to the procedure employed, but completely apart from that, in this particular instance he apparently is relying on some tonnage figures and it is perfectly evident from Mr. Mollman's exhibit that there is no way to determine where that tonnage originated or where it terminated, because we have different differential lines in CFA.

And I frankly think that it is absolutely irrelevant and meaningless and incompetent until it could be identified for some purpose more precise than it is being used for now.

I frankly object to the introduction of this evidence by Mr. Keenan.

[fol. 835] Exam. Boat: I don't think we need to go further, Mr. Hanifin. If he wants to point out those that can be done on brief, the comparable showing in Mr. Mollman's exhibit.

Mr. Keenan: I have a short distance to go. Should I stop now or should I complete it?

Exam. Boat: I think so. You have indicated those of the nature you were talking about.

The Witness: I couldn't keep up with him, but I'm looking at Item 527, chemicals.

I know for a fact that a lot of the movement of chemicals has to go through New York because of ship sailings.

By Mr. Keenan:

Q. Would you be surprised to find out that—

Mr. Hanifin: I think it is irrelevant whether Mr. Jefferson would be surprised. I object. I think the question is improper.

Exam. Boat: He hasn't asked the question yet.

Mr. Hanifin: He said "Would you be surprised." I think that much is objectionable.

Exam. Boat: Can you restate the question?

Mr. Keenan: Yes, sir.

By Mr. Keenan:

Q. Would you be surprised—

Mr. Hanifin: I object. That is an improper question, as to whether Mr. Jefferson would be surprised about anything.

Mr. Keenan: Can I finish, please?

By Mr. Keenan:

Q. Would you be surprised, Mr. Jefferson, to find out [fol. 836] that 5.418 tons of No. 527, Chemicals, NOS, representing 78.4 percent of the total moved through Philadelphia during this period we have in mind?

Mr. Hanifin: If the Examiner please, I object to the question. I think it is irrelevant whether Mr. Jefferson is surprised about anything.

Exam. Boat: He can ask him whether he is aware of that fact.

The Witness: I see it on the exhibit here, and that doesn't change my statement at all that some has to go through New York because of ship sailings, ships that go into New York that do not go into some of the other ports.

By Mr. Keenan:

Q. Do you think more than 17 percent goes through New York?

A. Yes, I think normally, probably it does. That is based on what informed judgment I have on the subject of chemicals.

Q. Would you agree with me, then, Mr. Jefferson, that that would be an indication at least of one instance of error in the—

A. Not at all.

Q. May I finish the question, please, sir?

A. Go ahead.

Q. (Continuing) —an indication of error in the compilation of Exhibit MLM-5?

A. Not at all. This is for a specified period, this exhibit. [fol. 837] Q. It would be an indication, then, that period was not properly representative with regard to this commodity, wouldn't it?

A. I don't know anything that differs any more than the import-export movements of any commodity.

Q. You mean, if I understand you correctly, sir, it is very difficult to get a representative period with regard to this, and you can't rely on one, is that right?

A. I don't think there is a representative period on import-export traffic.

Q. Do you think the commodity figures that Mr. Mollman has developed here have any value?

A. Yes. In the over-all.

Q. Well, with respect to these commodities that we have been discussing, Mr. Jefferson, do you think that the Port of Hampton Roads needs a rate parity with Baltimore and Philadelphia in order to compete with Baltimore and Philadelphia?

A. To the extent that they compete with those two, I would say yes, although I am not changing my statement that we regard New York as our main competitor as a port.

Q. Do you figure that you need a differential under Boston to differential territory in order to compete with Boston?

A. I hadn't given the Boston situation any study, and really didn't know until this week why Boston didn't get more than they do get.

Q. I don't think that is responsive to the question. [fol. 838] I wanted to find out whether you thought you needed a differential under Boston in order to compete with Boston.

Mr. Keenan: May the witness confine himself to the question asked, Mr. Examiner?

The Witness: From what I now understand about the Boston situation, I don't regard it as a real competitor; 16 cars a year I don't regard as a real competitor of the wonderful Port of Newport News.

By Mr. Keenan:

Q. Now, you say at page 4 of your statement, Mr. Jefferson, down there at the bottom, experience has shown that export and import traffic will not move via Newport News where the rates are the same as those applying via New York.

You are referring to the territory between the Buffalo-Erie, and the Sandusky-Mansfield Line, is that right?

A. I am referring to the territory where, as compared with Newport News, I think you have far more than you are entitled to at Boston.

Q. I don't know who you mean by "you."

A. You represent the Boston interests, I understand. I say the same thing for New York, too.

Q. Sure.

Have you informed yourself, then—I certainly assume you have, but let me just confirm it—in order to make this statement, have you informed yourself as to the tonnage moving to and from this intermediate territory between the [fol. 839] Buffalo-Erie Line and the Sandusky-Mansfield Line?

A. It is my general information—

Q. Just a minute before you tell me what that information is, I want to know whether you have informed yourself.

A. Yes, sir.

Q. Tell me how you have informed yourself before you tell me what you know. How did you get this information?

A. I have been in the making of freight rates for many years, and I have tried to keep up in a general way with the movements. That background is the result of this statement here.

Q. Sure.

Now, has your information—before you tell me what it is,

Mr. Jefferson, has your information included—and I certainly imagine it has—tonnage moving between the inland territory in question and New England, the Port of Boston, for instance?

You just told me that first the New England railroads get more than they deserve; so I assume you know what they are getting, right?

A. I say you have a rate adjustment you don't deserve as compared with Hampton Roads, insofar as this territory in between, Buffalo-Pittsburgh line, and the Sandusky-Mansfield, New York line.

Q. Do you know what the tonnage is that moves from that inland territory to any ports other than Hampton Roads?

[fol. 840] A. I do not. I do know it is a very productive territory.

Q. But you don't know what the tonnage is that moves to any port except Hampton Roads, from this territory or to it?

A. That is correct.

Q. Well, regardless, then—

A. Specifically, I mean, when I say that is correct.

Q. This is in spite of the fact that your close contact with the situation, as a railroad executive, as you have just told me about it, and your long experience in evaluating traffic figures, right?

A. All right, based on my long experience, I will say that I understand that this territory involves some of the most important tonnages that the ports to the north of us have.

Q. But you don't know in what volume it moves to what port, right?

A. That is correct—specifically.

Q. Of course, then, you don't know—well, when you answered my last question, you understood me to be including the ports of Baltimore and Philadelphia in my inquiry, didn't you?

A. Yes.

Q. You, at page 9 of your statement—pages 9 and 10, you list some military installations, Mr. Jefferson.

Would they be affected by an increase or a decrease of ocean traffic through Hampton Roads?

A. I was just talking about the importance of the Port [fol. 841] of Newport News and so forth insofar as the national defense is concerned.

Q. Sure. Your answer to my question is no, with that explanation, right? Do you have the question in mind?

A. I am not certain whether there is any transit arrangements that would result in a joint through rate, import applying or not. I don't know that there are.

Mr. Keenan: What did the witness say, please?

Exam. Boat: He didn't know if there was any transit arrangements at these installations which would apply on export and import traffic.

Mr. Keenan: Thank you, Mr. Examiner.

By Mr. Keenan:

Q. You don't know of any?

A. That is right.

Q. Will the rates under discussion in this case, Mr. Jefferson, affect these installations?

A. If the Port of Newport News should dry up it would, I think, affect the national defense. The port was used largely in world wars.

Q. Would the rates here under discussion affect these installations, Mr. Jefferson?

A. If the Port of Newport News dried up, I would say so.

Q. How?

A. I say Hampton Roads—I include Norfolk in this.

Q. How?

[fol. 842] A. Because some of these installations, I assume, are located where they are because of their ability to import or export through Hampton Roads.

Q. Why do you assume that?

A. Because they have been so largely used in the past.

Q. They have been what?

A. So largely used in the past.

Q. So largely used?

A. Yes.

Mr. Hanifin: Largely.

By Mr. Keenan:

Q. What have been so largely used? I'm sorry, sir, I'm just not understanding you.

A. The Port of Hampton Roads has been so largely used in the past in connection with these installations.

Q. Somewhere in your evidence, is there an estimate or an explanation of what the coal tonnage is through Hampton Roads?

A. No, sir. Not except as might be included in some overall tonnage.

Q. What is that annual tonnage, the most recent 12-month period you can think of, approximately, Mr. Jefferson?

A. I would rather not guess at it. Coal does not come—

Q. Surely you can tell me whether it is 15 million tons or 2 million tons or 5 million tons.

A. It has been very substantial.

Q. I would like you to tell me of what order it is. For [fol. 843] goodness sakes, isn't this tonnage important to your railroad?

A. I say it has been very substantial.

Q. Isn't this tonnage important to your railroad?

A. Very.

Q. Aren't you acutely aware of what the volume of that tonnage is, as a traffic man?

A. I am not going to guess at it. It is very substantial.

Q. That doesn't answer my question.

Mr. Hanifin: If the Examiner please, Mr. Jefferson is the freight traffic manager, as Mr. Crowl put it, on the merchandise side of the house. I don't know as he has any detailed knowledge of what the coal tonnages are, other than in a general way. I think he is hardly a proper witness for this type of questioning.

Exam. Boat: I think that he has testified as to traffic volumes here, if he knows.

Mr. Hanifin: Nothing about coal, if the Examiner please. It is not involved in the proceeding. I would have thought it to be irrelevant had we put it in.

Mr. Keenan: I will withdraw the last question if there is an objection pending, but I confess I am interested in your management there just a little bit, Mr. Jefferson.

Exam. Boat: Let's go to the next question.

By Mr. Keenan:

Q. Is counsel right, you don't have anything to do with the traffic management of coal traffic?

[fol. 844] A. That is correct.

Q. Is there somebody who is in charge of that with the Norfolk and Western?

Mr. Hanifin: C&O.

By Mr. Keenan:

Q. Excuse me. The C&O.

A. We have a coal traffic manager, if that answers you, yes, sir.

Q. What is his name?

A. R. J. Beatty.

Q. You have never had any occasion to learn from him what at any period you can think of—any annual period you can think of, what Hampton Roads' coal traffic was?

A. I am not going to guess at it. Substantial is as near as I am willing to approximate it.

Q. I didn't ask you whether you were going to guess at it. I asked whether you had any occasion to learn from Mr. Beatty, what the volume of your coal traffic has been for any 12-month period in the past.

A. I can say this, with one exception, coal has represented more than 50 percent of our revenue for the last several years. I can tell it to you in that sort of language.

Q. Thank you for that information, but it still doesn't answer my question.

My question was, have you never had any occasion to learn from Mr. Beatty what the volume of your coal traffic [fol. 845] has been during any 12-month period during the past?

Mr. Hanifin: For clarification, Mr. Keenan, are you talking about our lake tonnage, our domestic tonnage, our tide tonnage, or tonnage delivered to connections?

Are you talking about the C&O's tonnage, Hampton Roads' tonnage, or what are you talking about, sir?

Mr. Keenan: Mr. Examiner, I don't know whether there is an objection or not.

Mr. Hanifin: There is, until the question is clarified what Mr. Keenan wants.

Mr. Keenan: I think the question is perfectly clear, but I claim it.

Mr. Hanifin: I don't know what you mean by "claim" it.

Mr. Keenan: I won't withdraw it.

Mr. Hanifin: Can we have the question read to see if it is clear, if the Examiner please?

Exam. Boat: It is sometime back there.

(Question read.)

Mr. Hanifin: That is what I had in mind. He said the volume of our coal traffic. It is so ambiguous it is impossible to be answered.

By Mr. Keenan:

Q. Any volume of coal traffic handled by the C&O.

A. I gave it to you as far as the gross income for the last several years, with one exception, with the exception of one [fol. 846] year, it has amounted to more than 50 percent of our over-all gross revenue.

Mr. Hanifin: If the Examiner please, sir, if you believe this to be of relevance, I will furnish the coal tonnage of the C&O on some basis that doesn't disclose confidential business statistics.

Now, if you conclude that this matter is of some substance and concern to this record, all right, but I see no purpose in continuing to ask this witness.

Exam. Boat: I don't see how it can be of any value. You have coal tonnage moving to the lakes and all over.

Mr. Hanifin: We have it to the lakes, to the connections. Do you do it on the basis of the originated tonnage, terminated tonnage, or tide, what purpose is it for?

Mr. Keenan: I can explain this very rapidly and briefly.

The witness said Hampton Roads is in dire jeopardy as he calls it of drying up, therefore these military installa-

tions, and assumedly the welfare of millions of people will be seriously harmed.

I want to merely find out how much coal tonnage there is moving through Hampton Roads to any—to figure out what would happen to Hampton Roads if it never got another pound of merchandise traffic. I will accept counsel's offer.

Mr. Hanifin: I am going to object to the question, because that assumes that on the basis of coal tonnage we would [fol. 847] continue to maintain some merchandise wharves and docks down there over which not a pound of coal moves and for which there would be absolutely no purpose. And it would seem to me to be, in the least, imprudent management to continue to maintain some wharves and docks down there simply because you were also moving coal through piers at the same port.

I object. I object to the question. I think it is absolutely irrelevant.

Mr. Keenan: We spent 20 minutes, almost, concerning just one fact, how much coal moves through.

I will take it in any form. I don't want any business information, I don't care where it comes from, I just want to know what the gross coal tonnage is that moves through Hampton Roads via the C&O or all of the roads, if they will give it to me. And it wouldn't be relevant unless there had been a suggestion made that Hampton Roads is going to dry up without differential territory tonnage.

Mr. Claytor: May I point out something, Mr. Examiner? The evidence in this case, I believe some exhibits introduced by Witness Day, show the tonnages through Hampton Roads, and I believe in one exhibit it shows the coal tonnage.

This matter is already of record, and I don't see what we are arguing about here. If counsel had bothered to familiarize himself with it, he would not have had to go into this.

Mr. Keenan: That is not the case, I am advised, Mr. [fol. 848] Examiner. That evidence is Army Engineers, and is not specifically for the C&O.

Mr. Claytor: Do you want it for the C&O, is that the purpose of your question?

Mr. Keenan: I meant thereafter to seek it for the Norfolk and Western.

Mr. Claytor: The statistics which appear of record in this proceeding show the total coal moving through Hampton Roads, all railroads, C&O, the Virginian, and the Norfolk & Western, there are no others.

Mr. Hanifin: Did I observe you could not see the relevance of this information for the record? If that is so, I withdraw my offer to furnish it, because this record has been burdened already.

Exam. Boat: I don't see the relevance of all coal tonnage handled. I can see some relevance, perhaps, of coal tonnage through Hampton Roads, but if that figure is in the record as you say, I don't think it should be furnished.

Mr. Claytor: Yes, it is in the record.

Exam. Boat: Very well, we won't require this witness to furnish it.

By Mr. Keenan:

Q. It is clear from your testimony, Mr. Jefferson, in your opinion, any decision in this proceeding will not affect the movement of coal through Hampton Roads, will it?

[fol. 849] A. I don't think that a decision in this case will affect coal through Hampton Roads in any immediate future.

Q. And this coal contributes to the continued availability of Hampton Roads for defense purposes, doesn't it?

A. As long as it lasts.

Q. Pardon?

A. As long as the flow of export coal lasts.

Q. And it contributes to the economic health of your railroad, doesn't it?

A. As long as it lasts. It is a sporadic thing. Down through the years, it is a sporadic thing.

Q. Therefore, isn't it true, Mr. Jefferson, the rates in question, concerning commodities other than coal, are much more important to a railroad like the New Haven, that doesn't have this coal, than to the Norfolk & Western or the C&O, which does have it?

Mr. Hanifin: May I have the question read, please?

(Question read.)

The Witness: Substantially, I don't understand you have either.

Mr. Keenan: I think I will conclude the examination with that answer.

Exam. Boat: Very well.

Mr. Keenan: My examination.

Exam. Boat: Is there further cross?

[fol. 850] Mr. Hanifin: I have one question.

Redirect examination.

By Mr. Hanifin:

Q. Mr. Jefferson, are any of the facilities over which general cargo and merchandise traffic handled through the Port of Newport News, the same facilities as those through which coal is exported?

A. I understand that they are not.

Mr. Hanifin: That is all I have.

OFFER IN EVIDENCE

Exam. Boat: Do you offer the exhibit?

Mr. Hanifin: May I at this time, if the Examiner please, offer in evidence Exhibit No. 68?

Exam. Boat: It will be received.

(Protestant's Exhibit No. 68, Witness Jefferson, was received in evidence.)

Mr. Keenan: Mr. Examiner, I question briefly—

Exam. Boat: Off the record.

(Discussion off the record.)

Exam. Boat: On the record.

The witness is excused.

(Witness excused.)

Exam. Boat: The next witness.

GEORGE ROACH was sworn and testified as follows:

Mr. Foley: Mr. Examiner, what time are you planning to close?

[fol. 851] Exam. Boat: In about 15 minutes.

Direct examination.

By Mr. Hanifin:

Q. Mr. Roach, have you prepared for introduction in evidence in this proceeding a statement of 33 pages and accompanying exhibits which are dated under the verification of February 18, 1958?

A. I have.

Mr. Hanifin: Let the record show at this time that a verified copy of this statement and exhibits—

Exam. Boat: It may be identified as Exhibit No. 69.

(Protestant's Exhibit No. 69, Witness Roach, was marked for identification.)

By Mr. Hanifin:

Q. Mr. Roach, since the preparation of this evidence, have you found errors in your Exhibit GR-13?

A. Yes, I have. I found a slight correction to be made in the tabulations, which is a clerical error, but it doesn't change very substantially the average gross tonnage per ship.

Q. Will you please read, sir, for the record, those corrections?

A. What we have to do on this is change each month the number of ships. Presently, it reads: January—

Exam. Boat: What page, please?

The Witness: I am sorry. GR-13.

Mr. Colgren: It is the last page.

The Witness: It is the last page of the exhibits.

[fol. 852] Exam. Boat: Of all of the exhibits?

The Witness: Yes, sir.

The month of January 1957, presently shows 102 ships.

Exam. Boat: Read the correct number.

The Witness: All right. It should be 101, 67, 144, 110, 144 and 123, which will change the total to 689 ships.

Now, against the total cars in the next column, the first one is correct. The second one should be changed to 869. The next is 1751. The next, 1282. The next, 1471, and the last one, 1733 cars.

The only other changes are in the gross tonnage in the last month, which would be June 1957. That gross tonnage should show 37,963.39, and that will change the total to 171830.94. And it changes the average gross tonnage per ship to 249.39 gross tons per ship.

By Mr. Hanifin:

Q. Mr. Roach, in your testimony you have used 250 tons; is that correct?

Mr. Welsh: Mr. Examiner, may I interrupt a minute? I didn't get the last figure.

Exam. Boat: Off the record.

(Discussion off the record.)

[fol. 853] Exam. Boat: On the record.

(Question read.)

The Witness: That is correct.

By Mr. Hanifin:

Q. Then there will be no necessity to change any tonnage figures used in your verified statement, because the corrected figure is substantially the figure as the one which was submitted in error?

A. That is right.

Cross examination.

By Mr. Miller:

Q. Would you turn, please, to your Exhibit GR-1, which is the chart of the pier facilities at Newport News?

A. Yes.

Q. Are those all of the C&O piers at Newport News?

A. Yes, with this exception, that on this engineer's draw-

ing, if you will look at what is called Pier No. 9, we have since this drawing was made built a bulk handling pier.

Q. Isn't it true that the principal use of these piers is for unloading of bulk cargo?

A. The use of all these piers in Newport News?

Q. Yes.

A. No, sir, that is not true.

Q. Well, to what extent are these piers used for loading ships with general merchandise cargo?

A. We confine the loading of general cargo traffic to [fol. 854] Piers 4, 5, 6, and Pier 8.

Q. What piers are used for loading of coal?

A. For loading of coal, they will be piers 14, and 15, not shown in this diagram so far as I know. No, they are not. The coal piers are not shown on this diagram.

Exam. Boat: The title indicates merchandise pier facilities.

Mr. Miller: Yes.

By Mr. Miller:

Q. Now, what quantities of general merchandise are loaded at one single time at these piers?

A. At one single time?

Q. Yes. How much cargo is delivered to the ships at these piers?

A. Going to that average, it is 250 tons as an average, which depends on the vessel and the type of cargo involved, and so forth.

Q. How many vessels a year come into those piers for only 250 tons?

A. Well, for half a year there were 1200-some, weren't there? I would have to make a tabulation of that, I don't have it—oh, yes, 1216 for a year-period, from July, 1956, through June, 1957. There were 1216 ships.

Q. Those ships actually dock at those piers?

A. Not in all cases, no. It is an export delivery to a steamer at Newport News, or in a minor number of cases a lighter delivery alongside the steamer somewhere in the [fol. 855] Hampton Roads area, other than Newport News, presumably Norfolk.

Q. Your figures do not mean those ships all come and dock at those piers, do they?

A. Not all, but a very small percentage of them we lighter to at Norfolk.

Mr. Hanifin: If you please, Mr. Miller, I think Mr. Roach may have misunderstood your question, because I think he gave you 1216 ships from an exhibit which on GR-7 refers to carloads of general cargo exported at Newport News. I wanted the record to be clear.

By Mr. Miller:

Q. It did seem like a large number of ships to come for 250 tons of freight.

A. Granted. I haven't got it tabulated for a year, but I have it for half a year, 689. That is the exhibit I meant to grab. I grabbed the wrong one.

Q. 689 ships actually docked at those piers?

A. No, it would be the same situation as I explained now.

Q. How many do dock at those piers?

A. We lighter a very small percentage of our export and import traffic. It is way less than 10 percent, so far as I know.

Q. Do those ships that dock at those specific piers also dock at the Norfolk piers?

A. Frequently some do, yes. Not always. We have a lot of steamship service at Newport News that doesn't touch Norfolk.

Q. Isn't more often the case when they come in for only [fol. 856] 250 tons that they have also docked on the other side of the river?

A. That I am not sure of. Business is pretty lean these days.

Q. Mr. Roach, your testimony relates principally to competitive traffic with New York and also mentions some of the Canadian ports.

Do you find any competition with the other North Atlantic ports?

A. Yes.

Q. Boston?

A. Not so much Boston, I haven't noticed particularly,

possibly because our line of movement doesn't lend itself to the tonnages moving via Boston.

Q. Portland?

A. Nor Portland, the same situation.

Q. Albany?

A. Albany, to my mind, is a grain port, we are not in the grain business at Newport News.

Q. How about Philadelphia?

A. Philadelphia, yes. There is some competition.

Q. Baltimore?

A. Baltimore is some competition.

Q. Well now, do you have any objection to equalization of rates as between Hampton Roads ports on the one hand and these ports north of New York City like Albany and [fol. 857] Boston and Portland and the like?

A. Albany and Boston and Portland?

Q. Yes.

A. I don't know. I'm unable to reach any conclusion with regard to those ports. My principal competition is New York.

Q. If Portland and Boston and Albany had the same export-import rates to and from differential territory as Hampton Roads, do you think that would have any competitive effect on C&O traffic?

A. It might. We don't fare so well when we are operating against equal freight rates with somebody else.

Q. You don't know?

A. I don't know. I would rather not make any comment.

Mr. Miller: That is all I have. Thank you.

Mr. Hanifin: Would anybody else like to go ahead? Is Mr. Keenan the only other one who wanted to cross examine? Has he gone?

Exam. Boat: Yes, I think so. It is almost a quarter of five. I think we will adjourn now until 9:30 a.m., Tuesday morning, February 25, 1958.

(Whereupon, at 4:45 p.m., the hearing adjourned to reconvene at 9:30 a.m., Tuesday, February 25, 1958.)

[fol. 858]

BEFORE THE INTERSTATE COMMERCE COMMISSION

I & S Docket No. 6615

FSA Docket No. 32204

[Title omitted]

Met, pursuant to adjournment at 9:30 a.m.

Before: Marion L. Boat, Examiner.

APPEARANCES:

As heretofore indicated.

[fol. 860] PROCEEDINGS

Exam. Boat: Come to order please, gentlemen.

GEORGE ROACH, a witness, previously sworn, resumed the witness stand.

Exam. Boat: We will excuse the witness temporarily.

(Witness temporarily excused.)

Mr. Langdon: Mr. Examiner, before Mr. Hamill's cross-examination begins, I should like the record to show we shall not require the subpoena requested from the Examiner for Mr. Ralph M. Binney. He is Chairman of the Advisory Council to the Port of Boston Commission and we wanted Mr. Binney to authenticate the reports of that Advisory Council.

Over the weekend we have made arrangements with a member of that Advisory Council to appear and to appear voluntarily, to authenticate these reports at the March 25th hearing, and for that reason we do not need the subpoena.

Exam. Boat: Thank you.

Mr. Keenan: Mr. Examiner, I would like to find out who that witness is, if counsel cares to disclose his identity.

Exam. Boat: Can you indicate, Mr. Langdon?

Mr. Langdon: Mr. Herbert S. Evans.

Mr. Miller: Mr. Examiner, I wonder if we could go off the record and indicate the order of witnesses.

Exam. Boat: Off the record.

(Discussion was off the record.)

[fol. 861] Exam. Boat: On the record.

W. S. HAMILL was sworn as a witness and testified as follows:

Exam. Boat: Proceed.

Direct examination.

By Mr. Macleay:

Q. Will you state your name and business connection for the record, Mr. Hamill?

A. My name is W. S. Hamill.

I am director of the Business Research Department of the Baltimore Association of Commerce.

Q. Did you prepare, and were there distributed to the parties in this proceeding, two verified statements identified as WSH-A and WSH-B?

A. I did.

Q. Are they true and correct to the best of your knowledge, information and belief?

A. They are.

Mr. Macleay: May I ask, Mr. Examiner, these statements be marked for identification, I suggest with a single number and a sub-designation of A and B, together with the attached—

Exam. Boat: I think we had better give these two separate exhibit numbers. Don't like to use letters.

Mr. Macleay: I am merely following what we did in one earlier instance.

[fol. 862] Exam. Boat: I think we had better give them two separate numbers.

Mr. Macleay: Then I suggest, sir, WSH-A and Exhibit WSH-1 be given the same number?

Exam. Boat: That will be identified as exhibit 70.

(Exhibit 70, Witness Hamill in support of Protestants was marked for identification.)

Exam. Boat: The other WSH-B.

Mr. Macleay: WSH-B and exhibits WSH-2 and WSH-3 should be given the same number.

Exam. Boat: Those will be identified as exhibit 71.

(Exhibit 71, witness Hamill in support of Protestants was marked for identification.)

Mr. Macleay: The witness is tendered for cross-examination.

Cross examination.

By Mr. Moerman:

Q. Mr. Hamill?

A. Yes, sir.

Q. Will you turn, please, to your verified statement WSH-B and to page 26 of that statement.

Have you been in the hearing room during preceding sessions of this hearing?

A. Only last Friday, sir.

Q. Only last Friday?

A. Last Friday morning and a little bit in the afternoon.

[fol. 863] Q. There has been some discussion concerning the meaning of the term "general cargo."

Looking at your table, taken from the Corps of Engineers study, tell us what your understanding of the term "general cargo" is, so far as maritime trades or practices are concerned?

A. Well, it is my understanding general cargo is anything that is boxed or barreled or wrapped up or even in some instances in some kind of a package, or it might even be by the piece—certain things could be shipped by piece, without being in any particular carton or anything.

So we generally look at it in the term of package cargo.

We went down the line. I think I have something here that shows what we included in our breakdown.

Q. Well, now—

Exam. Boat: In that connection, may I ask here, the first item, general cargo, excluding raw sugar.

Now, is raw sugar considered general cargo?

The Witness: Well, the reason we cut that out of there, it could be, the fact that we used the Philadelphia breakdown, and they had a separate figure calculated for raw sugar, we followed their same general procedure by isolating that one commodity.

Exam. Boat: Doesn't it move in bulk, generally—raw sugar?

[fol. 864] The Witness: It could be moved in bulk, yes, sir.

Exam. Boat: I understand a good deal of it does.

Well, I do not know, perhaps you can clear this up. It is confusing to me.

The Witness: That was excluded out of there anyhow. Sugar would not be in our general setup of general cargo.

By Mr. Moerman:

Q. Let me ask you this question, Mr. Hamill:

Would you say that general cargo excludes, looking at page 26, raw sugar, crude oil, tanker cargo, miscellaneous bulk likewise, coal, grain, ores—I have already named raw sugar.

A. Yes, sir.

Q. And other miscellaneous bulk cargo?

A. The general cargo would exclude all of those, yes, sir. I would say so.

Q. You would say so.

Now, it has been shown in this case, in witness Mollman's exhibit MLM-5—that in excess of one million tons of ores and concentrates moved via the Port of Baltimore in a given year.

Would you know whether or not that tonnage moved exclusively in shiploads?

A. No, I would not, no, sir.

Q. If it moved in shiploads, I take it you would characterize the cargo as general cargo, is that right—

Mr. Macleay: Could I have that question read, please? [fol. 865] I seemed to have missed it.

Exam. Boat: Please read it, Mr. Reporter.

(The question was read back.)

Mr. Macleay: Is that what you meant?
Mr. Moerman: No, I made a mistake.

By Mr. Moerman:

Q. I take it you would characterize the cargo as bulk cargo?

A. If it moved in shiploads. If ores came in sometimes they could be put in general packages, or one thing and another, and that would qualify under the general definition of general cargo.

Q. Tell me, if you know, when ores moved in bulk cargo, as bottom cargo or otherwise, whether it is invariably true, they are packaged, boxed, or put in drums or barrels?

A. I am not familiar with the manner in which these were compiled from the U.S. Army Engineers reports, from a statistical standpoint. I did not go into any aspect of how the movement might go to and from Baltimore.

Q. I see; that brings me to my question whether, in connection with your exhibit WSH-1 the title of which indicates that you are showing service provided by vessels carrying general cargo for the period shown, such vessels carry not only general cargo by your definition, but also so-called bulk commodities in less than full cargo lots, would you know that?

[fol. 866] A. Well, we used the U. S. Maritime basis sheets for the determination of the material included in the green book there, this WSH-1. Their record would show whether it was a bulk cargo or ballast or army cargo, or general cargo. There was no attempt to correlate this table G with the material presented in WSH-1.

Q. But, isn't it a fact that is used by the maritime administration? A. Yes, sir.

Q. The term "general cargo" refers to the vessel and that there is no way in telling from the sheets what the lading of the particular vessel was or is or will be?

A. Well, it shows that, if it comes in with certain symbols, it has general cargo coming in or going out or between ports, because, if it goes in in ballast, or in bulk, it would carry a different symbol.

Q. But if it shows that it contains general cargo, does that mean that the entire lading is general cargo or that some of it is general cargo?

A. Conceivably some of it could be general cargo, but—I mean, it could be bulk cargo, but the preponderance on there, no doubt, would be general cargo, or they would not revert to it or refer to it as a general cargo vessel.

Q. Isn't it a fact that it is important in the maritime trades for practically all vessels except luxury liners, pas- [fol. 867] senger liners, to attempt to obtain bottom cargo of materials like grain and wheat and similar commodities?

A. As I said before, I am a statistician, and I am not familiar with the manner in which cargoes are solicited and handled.

Q. I see.

A. I have seen certain things, but I mean, I am not familiar with the general handling.

Q. Mr. Hamill, could you tell us, as a statistician, where you would put a commodity like scrap iron, whether in the general cargo or bulk cargo part?

A. I have seen scrap iron compressed into bundles or something like that, and that could be handled in such a way that it might fit into the definition of general cargo.

Q. Now, Mr. Hamill, referring again to your exhibit WSH-1, if I understand it correctly, you have eliminated so-called bulk cargo vessels and have limited the exhibit to so-called general cargo vessels, is that right?

A. Yes, sir.

Q. You have not attempted in this exhibit, I take it, to show all of the vessels which carry import and export traffic which is carried overland by any of the railroads—any or all of the railroads, parties to this case?

A. Well, these were taken exactly as appear in these records, and if it visited any one of the Ports of New York, Boston, Philadelphia, Baltimore, or Hampton Roads, it was [fol. 868] included, it was a general cargo vessel, either inbound or outbound.

Q. So that, as a matter of fact, you do not know whether or not these general cargo sailings in your exhibits reflect all of the import-export traffic carried by railroad respondents in this case?

A. Well, these are supposed to show every general cargo vessel calling at the Ports within that period, and it was assumed that the cargo available would be picked up on

Q. Mr. Hamill, I have testified at length concerning the importance of water-borne trade to your port, and the question I am asking you is, can you tell us to what extent the vessels shown in your exhibit, so-called general cargo vessels, carry the export and import tonnage shown of record in this case—half of it, 25 per cent of it, or all of it? And if you do not know, please tell us that.

Mr. Macleay: I believe the witness already testified there was no attempt to correlate tonnage figures with these sailing figures.

Exam. Boat: Can he answer?

The Witness: I do not know right off what proportion it would be. I have not given it any thought up to this moment.

By Mr. Moerman:

Q. Turn to page 27 of your statement, please.

A. Is that WSH-B-27?

Q. WSH-B, your testimony.

[fol. 869] A. That is right; yes, sir, page 27.

Q. Do you have it?

A. Yes.

Q. Fine. At the top of the page you have a sentence which reads "Since the handling of general cargo requires the use of more port services and operating personnel than bulk cargo, it produces a much greater revenue per ton than any other class of water-borne traffic."

Now, there you are talking, I take it, with respect to what general cargo does for your port, is that right?

A. That is right, or any port, where there is a lot of services, handling, stevedoring services, a lot of handwork, whereas bulk, you have the big buckets going down and unloading an ore ship, you would not need near as many people unloading a given quantity of ore as a given quantity of general cargo or miscellaneous package freight.

Q. You are not attempting to inquire as to how the railroads come out in handling bulk versus general cargo, are you?

A. No, sir, this is a community standpoint. This is from the over-all economic standpoint rather than any particular

Q. I see.

Exam. Boat: When you are speaking of greater revenue, you refer to gross revenues to the ship?

The Witness: No, it is gross revenues to the community, [fol. 870] to the port. Because, a lot of this is not paid by the ship.

Exam. Boat: Very well.

By Mr. Moerman:

Q. So that the burden of your testimony here is with respect to the effect upon the port?

A. That is right. I am trying to show here the Port of Baltimore is a very important economic asset to the community, and anything that would hurt the port would hurt the over-all economy of the community.

Q. Precisely.

Now, on the same page, 27, in the middle of the page, you state that with about 90 per cent of its water-borne tonnage consisting of bulk commodities, general cargo is considerably more important at Baltimore than at Ports having a better balanced relationship between general and bulk cargoes.

Now, what port, for example, in your opinion, has a better balance relationship between general and bulk cargoes?

A. Well, I would say, I have not made any particular study but I have seen a lot of these ports. In the first place, Baltimore has been known a lot of times as a bulk port and we have very high tonnages of bulk commodities coming into Baltimore.

Q. Like what?

A. I mean, like the Bethlehem Steel plant that has an ingot capacity of 8 million tons a year, and all of its ores are foreign ores, and we have gypsum rock down there [fol. 871] that is very important, we have a lot of petroleum come in in bulk, the sugar refineries bring in raw sugar, and we have quite a variety of industries there that use bulk commodities and Baltimore has an important industrial harbor and a lot of raw material bought domestic and foreign come into the community by water.

Q. And your interest in the general cargo is with respect to the prosperity and well-being of the port, is that correct?

A. That is right. The more general cargo you can get, the better off the port will be and the community.

Q. Now, in your exhibit WSH-1, showing the general cargo vessels, could you give us an estimate bearing in mind that 90 per cent of water-borne tonnage consists of bulk commodities, to what extent the general cargo vessels shown in your exhibit WSH-1 carry bulk commodities?

A. I could not tell how many of them might carry the bulk; general cargo vessels might carry some bulk. I have no way of determining that.

Q. Now, is it a fact that in your showing of general cargo vessels you have eliminated, without any exception, all so-called bulk vessels?

A. That is right.

Mr. Marbury: If they are carrying no general cargo.

The Witness: In other words, the only exception to that would be if it came in in bulk and went out in general, that [fol. 872] that vessel would be listed, or if it came in in general and went out in bulk, the itinerary would be shown. We are showing the complete itinerary for every one of those vessels. It either had to be general in and out, or general in, or general out.

Mr. Moerman: Mr. Reporter, would you read the answer?

(The answer was read back.)

Mr. Moerman: Mr. Examiner, may we have Mr. Marbury's statement stricken from the record?

Exam. Boat: Strictly speaking, it will not be regarded as evidence in the case.

Mr. Foley: It is coaching the witness.

Mr. Moerman: Admonish him to not coach the witness.

Mr. Marbury: I withdraw the statement.

By Mr. Moerman:

Q. Now, Mr. Hamill, with respect to the deletions of bulk vessels, was that done because the data which you examined at the offices of the Maritime Administration so characterized the vessel?

A. That is right.

Mr. Marbury: I do not understand what that question means. What does that mean?

Exam. Boat: I do not know whether it is necessary that you understand it, Mr. Marbury, the witness understood it, that is the Central thing.

Mr. Moerman: Mr. Examiner, the witness has submitted [fol. 873] an exhibit showing vessels carrying general cargo. I was inquiring with respect to his technique.

By Mr. Moerman:

Q. I take it, Mr. Witness, you had before you the records of the maritime administration, right?

A. We had these coded tabulations.

Q. Yes, sir.

A. Which were made from the official records of the Maritime Administration, and they were furnished to us.

Q. They show the name of vessel, the date of entry, the date of departure, and whether or not the vessel carried bulk or general cargo, or was in ballast?

A. Yes.

Q. That is so?

A. That is right.

Q. And it was on the basis of that information that you prepared the exhibits here before us today, is that correct?

A. That is right.

Q. So far as the lading of a particular vessel labeled "bulk", you do not know whether she carried iron ore, chrome, ferro-manganese, wheat, gypsum, or any other commodity, is that so?

A. That is right.

Q. So that it is a fair statement that your exhibit showing vessels carrying general cargo might not reflect all of the general cargo moving from and to the various ports [fol. 874] shown in your exhibit?

Mr. Macleay: Mr. Examiner, I am going to object to counsel asking this witness to characterize his statement as being either fair or unfair.

Mr. Moerman: That objection is well taken.

Mr. Macleay: Then I am going to ask it be read back to me again if I may.

Mr. Moerman: The question?

Mr. Macleay: Yes.

Mr. Moerman: I am willing to have it stricken.

By Mr. Moerman:

Q. Let me state it again: What I am trying to get at, Mr. Witness, is whether or not you know if the general cargo-carrying vessels listed in your exhibit account for all of the import and export trade which is the subject of this case, moving to and from differential territory by railroad. Do you know?

A. Well, no, I could not say that, but we took every vessel that appeared in these records and showed the complete domestic itinerary as far as the North Atlantic ports were concerned.

Now, if any bulk vessel happened to carry a small amount of package cargo, that would not be any preponderant item.

Q. Exactly. If it carried—if any bulk vessel carried any general cargo, that would not be reflected in your exhibit and conversely, Mr. Witness—

Mr. Macleay: Mr. Examiner, may I have that statement [fol. 875] of counsel's read back?

I do not know that I agree with his testimony.

Exam. Boat: Will you read it, please, Mr. Reporter?

(The reporter read the record.)

Mr. Moerman: May we start back with the statement of the witness?

My question was based on his statement. If I misunderstood him, I want to correct my question.

Exam. Boat: Let us read both the previous statement and the last question.

(The record was read.)

Mr. Macleay: I object, Mr. Examiner, to the characterization of the witness' testimony by counsel.

Mr. Moerman: Mr. Examiner, I do not know that I characterized it. The witness, as I recall, stated, if a bulk vessel

carried some small lot of general cargo, it would not be reflected in the exhibit.

Mr. Macleay: Mr. Examiner, the witness did not testify to any such thing. We just had it read back. He said it would not be significant. He did not say it was not shown. He testified perfectly clearly before, every vessel characterized by maritime as a general cargo vessel, which I assume is every vessel, we must assume is every vessel that carried general cargo, is tabulated.

Mr. Moerman: Let me ask you, Mr. Witness: Do you [fol. 876] know whether every vessel characterized by the Maritime Administration as a bulk vessel carried exclusively bulk cargo to the extent of 100 per cent?

A. No, I do not know that.

Q. Do you know the definition underlying the Maritime Administration term "bulk cargo" when used in connection with these coded tabulations or tabular sheets to which you refer?

A. Specifically, no.

Q. You do not know whether the term "bulk cargo" as used by Maritime in connection with its coded tabular sheets refers to a vessel which carries predominantly bulk cargo and some general cargo?

A. That is what I said before. I did not know.

Q. You do not know?

A. No.

Q. All right.

Mr. Hamill, in making up your exhibit, I take it that you went through all of the information with respect to vessels, bulk and non-bulk, available to you, is that correct?

A. We had these tabulations on dry cargo.

Q. Sir?

A. We had the tabulations relating only to dry cargo. That is what these tabulations refer to, and we went through every one, for the particular period that the exhibit covers.

Q. Well, at page four of your WSH-B, I beg your pardon—page 3—

[fol. 877] Mr. Macleay: That is exhibit 71?

The Witness: Yes.

Mr. Moerman: 71 is a better way to refer to it.

By Mr. Moerman:

Q. Exhibit 71, you show, near the bottom of the page that the number of general cargo ships calling at New York for the period given was 2,720 and that the number of general cargo ships calling at Baltimore for the same period was 1,357.

Now, does that number with respect to Baltimore include any outbound grain cargoes—parcel lot or full-cargo lot?

A. We took only what the Maritime Commission records showed as a general cargo vessel in, or a general cargo vessel out. There was no distinction there as to what the particular vessels carried—the type of cargo.

Q. Mr. Hamill, you have been a Maritime statistician at Baltimore for how many years?

A. I am not a Maritime statistician. I am Director of the Research Department, and I have handled certain shipping statistics for quite awhile.

Q. How long?

A. I have been on my present job for 28 years. It does not all deal with maritime.

Q. Don't you know in connection with the 1357 general cargo ships calling at Baltimore in that period, there were [fol. 878] some 800 bulk vessels?

Mr. Macleay: May I have that question read?

(The question was read.)

Mr. Macleay: I don't know what counsel means by "in connection with".

Mr. Moerman: In addition to.

Mr. Macleay: Thank you, sir.

By Mr. Moerman:

Q. Do you know whether any of these so-called bulk cargo vessels which are not shown in your study carried any traffic involved in this proceeding?

A. Well, I do not know how many bulk vessels called at Baltimore. We made no study of that.

Well, this dealt with the general cargo itineraries and was supposed to exclude bulk cargo vessels and ballast and things of that kind.

Q. What did you do, just call for the general cargo vessel tabulation?

A. That is right.

Q. Where did you get it?

A. From these maritime records. Data furnished us by the U.S. Maritime Commission.

I have the general tabulations coded here, I did not get all of them.

Mr. Moerman: Mr. Examiner, I take it the question in regard to the exhibit is more properly addressed to counsel [fol. 879] than the witness.

Therefore, I should like to ask Mr. Macleay this question: Whether it is intended by this study to cover the traffic involved in this case, or merely as the exhibit appears to show on its face, to give the figures with respect to general cargo-carrying vessels?

Mr. Macleay: That is correct.

The latter is correct.

Mr. Moerman: Thank you.

And with respect to the designation "general-cargo carrying vessels," Mr. Hamill, your testimony is this is the Maritime Administration designation, and they are taken from their records, is that right?

The Witness: That is right. From these coded tabulations.

By Mr. Moerman:

Q. Mr. Hamill, I have made a little tabulation, and I take it you have included in the sailings to and from New York some of the so-called luxury liners, like the Queen Mary, and that their number is about 300.

Could you bear me out on that?

A. I did not count the number. We went right down and took each ship as it appeared in the record. We did not count the different types of ships or names of ships.

Q. Well, if you will take your exhibit WSH-1 and turn to page 5—do you have it, sir?

A. Yes, sir.

[fol. 880] Q. You will find the 10th vessel from the bottom is the Queen of Bermuda.

Now, do you know how many passengers the Queen of Bermuda carries?

A. I imagine quite a few. I have seen the boat. I have seen the vessel, it has been in Baltimore, already.

Q. Nearly a thousand, isn't that right?

A. I do not know if it is a thousand, but it would be quite a few people.

Q. Do you know how much cargo-carrying capacity she has?

A. No, sir, I do not.

Q. Mr. Hamill, you have shown the Queen of Bermuda, have you not, on page 5 of that exhibit?

A. Yes, sir.

Q. Twice on page 14, three times on page 24, three times on page—

Mr. Macleay: Mr. Examiner, if counsel is asking the witness to check all these, he should go a little slower and give him time—give him an opportunity.

Mr. Moerman: All right.

Mr. Macleay: I submit that is something for counsel to do on brief, it is not necessary to do it here.

By Mr. Moerman:

Q. Let me do it this way to shorten it: You have shown the Queen of Bermuda 20 times in this exhibit, have you not?

[fol. 881] A. I don't know. I have not counted it. If it appears 20 times in the record, it appears 20 times.

Q. Are you familiar with the vessel called the NASSAU?

A. I am not familiar with that vessel; no, sir.

Q. You do not know she is strictly a cruise ship, a passenger ship?

A. No, sir, I am not familiar with that vessel.

Q. Will you take my word for it, you have shown this vessel 15 times in your exhibit WSH-1?

A. I do not know how many times it is in there.

Mr. Macleay: Does he, also, ask the witness to take his word for it she is strictly a cruise ship, as he expressed it?

Mr. Moerman: Yes, I am.

Mr. Macleay: We won't, as long as you have shown her carrying cargo, which she must have been to be in this tabulation.

Mr. Moerman: You are wrong. I do not think the tabulation is proof of anything. She may have been carrying 10 pounds of bananas. That is nothing for any railroad.

By Mr. Moerman:

Q. Now, as I tabulate it, with respect to a vessel like the Queen Mary, you have shown a dozen sailings, and the UNITED STATES a dozen sailings, and so on, to a total of approximately 300 for these so-called Super-Liners.

Now, let me ask you: Were these vessels shown in the [fol. 882] Maritime tabulation as general cargo vessels?

A. They must have been, or we would not have them in here.

Q. Or they would not be in this exhibit?

A. That is right.

Q. I see.

Now, bearing in mind that Baltimore is 90 per cent a bulk port, as you stated it, or 90 per cent of the traffic in and out of the port is bulk, and my figure of some 800 bulk ships which we will establish on this record at a later time, or else everything I say can be stricken—if you add that number of 600 to the Baltimore figures shown on page 3 of your testimony and you subtract these so-called general cargo luxury liners from New York, the sailings are pretty much the same at both ports.

Now, let me ask you, don't you think that putting in the general cargo vessels into—adding them to your list and taking away the luxury liners from New York actually reflects the so-called cargo sailings to and from both ports?

Mr. Macleay: May I have the question read, please, Mr. Examiner?

Exam. Boat: Please read it, Mr. Reporter.

(The question was read back.)

Mr. Macleay: Mr. Examiner, I do not know what the question means, maybe the witness does. I do not think counsel meant to state it that way.

[fol. 883] Mr. Moerman: I think I made a mistake in the question. I meant to indicate this, Mr. Witness.

By Mr. Moerman:

Q. Simply adding the bulk cargo vessels to the Baltimore total of sailings, adding together the general cargo sailings that you have with the bulk sailings, and then subtracting from New York the so-called luxury liners, and in that connection I asked you, wouldn't that be a better indication of vessels handling cargo on to and from the ports than you have shown?

A. I would say this: If I understand your question properly, if you added the bulk cargo on to the general cargo ships at Baltimore—

Q. That is it.

A. That would show our complete service, steamship service for any particular period, but I am not saying the 800. I do not know anything about that 800. But I am saying adding those together, but you should do the same thing for New York.

Q. By all means.

A. You ought to add the bulk ships to New York.

Q. Granted.

A. Then there is a question in my mind, I do not know how much the liner UNITED STATES or the QUEEN MARY carries in general cargo. Until I know more about that, I could say if we subtracted that, it would be more nearly comparable.

[fol. 884] Q. Precisely.

I take it from your statement, you have not for the purposes of this case examined the manifest of a liner like THE UNITED STATES, is that true?

A. No, I did not.

Q. And that you do not know; you can't help us with respect to the volume of cargo that might be carried by a liner like THE UNITED STATES?

A. No, sir, I could not.

Q. Were you here when Mr. Kneesy testified?

A. I was here Friday morning and until about 2:30 Friday afternoon.

Q. Did you hear the statement concerning the premium

rate charged eastbound—I believe—no, westbound, on these high speed luxury liners—freight rates?

A. No, sir, I did not hear that.

Q. One second, please.

Mr. Hamill, turn, please, to your WSH-2.

Mr. Welsh: Exhibit 71?

Mr. Moerman: Exhibit 71.

Mr. Foley: B is 71.

By Mr. Moerman:

Q. Turn to page 5, please.

A. Yes, sir.

Q. I direct your attention, Mr. Hamill, to the last two columns showing Hampton Roads sailings for the 6-month period in your exhibit.

[fol. 885] Now the total of the ins and outs—is something over 1700, as I make it out, and if we convert that to a year, we have roughly 35 or 36 hundred sailings, is that approximately correct?

A. That is what it looks like, if the first half of the year was the same as the last half of the year.

Exam. Boat: Mr. Moerman, how do you arrive at the 1700 figure?

Mr. Moerman: I add up the four figures, Mr. Examiner, at the top of page 5, 95 plus 170 plus 143, plus 771.

Exam. Boat: Right.

By Mr. Moerman:

Q. Just then to get it clear, I arbitrarily multiplied by two, that may not be the fact.

These are the general cargo sailings shown by the data which you have before you, is that so?

A. They were extracted from the green book. This tabulation was based on the green book.

Mr. Macleay: But the green book, you mean by that WSH-1?

The Witness: WSH-1.

By Mr. Moerman:

Q. Don't you know that the 1956 Hampton Roads sailings in fact were 17,000 for the calendar year?

A. I do not know what the total sailings were. 17,000 would seem to be rather high. Baltimore had a total number of lease arrivals last year, 6,000-something, a little [fol. 886] over 6,000. I would not think Hampton Roads would have three times that many.

Q. Well, I want to apologize for Mr. Hanifin, but this is coming up on your side of the case and I must make this stipulation. That, if this forthcoming material is not put into evidence in this case and it is coming on, I certainly would be agreeable to having the figure stricken.

A. I do not know. You asked me. I just gave you my opinion.

Mr. Walker: What are you doing, talking about coal ships?

Mr. Moerman: I am talking about the figures, Mr. Walker, with respect to Norfolk, which another witness will put in at a later time because of my previous objection I stymied myself from identifying the witness' testimony.

The Witness: These are ocean-going vessels?

By Mr. Moerman:

Q. Yes, sir.

A. In foreign trade. Ocean-going vessels in foreign trade.

Mr. Walker: You are not talking about general cargo ships?

Mr. Moerman: No, I am not.

Mr. Walker: That is what the exhibit talks about.

Mr. Moerman: That is right. There is no question about it.

By Mr. Moerman:

Q. Mr. Hamill, indulge me a moment here, I want to find a vessel.

[fol. 887] Would you turn to page 7—no, I beg your pardon. Will you find for me a vessel named THE ORE

CHIEF which entered Baltimore the third of July—I beg your pardon—3rd of August, and departed in ballast on the same day?

Mr. Macleay: What was the name of the vessel?

Mr. Moerman: THE ORE CHIEF.

By Mr. Moerman:

Q. Did you hear me say August, Mr. Hamill?

A. Yes, sir.

Q. Mr. Hamill, I owe you an apology; that is a bulk vessel which I had checked out myself and would not appear in your exhibit.

Mr. Hamill, we have at New York so-called industrial vessels, they bring in sugar for refining at New York.

Could you tell me whether or not such vessels would show up in your list of general cargo vessels?

A. If they came in in full cargoes, they probably would not.

Q. Probably would not?

A. Probably would not, although I have not checked that point.

Q. Also, Mr. Hamill, we have vessels coming in with news print in rolls, you know.

A. Yes, sir.

Q. Would you know whether or not such vessels would be included in the general cargo list?

[fol. 888] A. I would assume newsprint would be general cargo. As a matter of fact it is an item, it is in a roll.

Q. Now, there are a number of vessels which come in for military sea transportation service for the navy.

Could you tell me whether or not such vessels were included in your list of general cargo vessels?

A. Well, it is our idea to eliminate all army-navy materiel ships.

Q. How about lumber vessels, how would they be classed?

A. Well, lumber is one of those items that could not go by the piece. Timbers and all like that could be looked upon as general cargo. As I say, there is no precise definition of what general cargo is, and what it is not. You have this concept there. If you attempt to say what

any particular shipment is, you have to take the characteristics into consideration. A lot of lumber is boxed and packaged.

Q. You just testified that you have eliminated the MSTS vessels, is that so—military vessels?

A. Military vessels—that is right.

Q. Would you turn, please, to page 27 of your green exhibit? Nine ships from the bottom is THE ANTINOUS. Our check shows that that vessel is a military sea transportation service vessel.

A. Well, now, that came in, the way we have it here, without any general cargo.

[fol. 889] Q. Sir?

A. The way it is tabulated here, THE ANTINOUS came in without any general cargo in New York on August 3rd, but it went out with general cargo on to Marseilles, France, on August 4.

So that would be the reason why we included it in there. Our idea is, if there is one voyage in and out, general cargo, or both in and out, general cargo, the vessel is included.

Q. But it was a military ship, you do not dispute that, do you?

A. I do not know whether it is a military ship or not.

But, according to our records here, it brought no general cargo in to New York; but did go out with general cargo to Marseilles.

Q. To Marseilles.

A. That was the first foreign port of call. It might have gone to other foreign destinations beyond that.

Q. Turn to page 98, please.

Do you have it, sir?

A. Yes, sir.

Q. The 5th ship from the top, according to my information, is an MSTS vessel.

Mr. Macleay: Name it, please.

By Mr. Moerman:

Q. BURCO TRADER.

Don't your records show that?

A. Well, it does not show it here, but it shows it came

[fol. 890] in without any general cargo, but it did go out with general cargo from both Philadelphia and New York, to La Pallice, France.

Q. Turn to page 90, please.

Look, please, at the Coe Victory. My information is that that is an MSTS vessel which came in in ballast and sailed in ballast.

Would you look at your underlying data, please.

A. Well, it looks like it came in without general cargo.

We did not specify here whether it was in ballast or bulk cargo. It just did not have general cargo on, but it did pick up some cargo at Philadelphia, general cargo.

Q. Why do you show it as a sailing from New York?

A. Well, we adopted this philosophy: That, if a ship carried general cargo into one of these five North Atlantic Ports, it was included as a general cargo vessel on that particular run, whether it is inbound or outbound, whatever the case may be.

Q. And whether or not it carried general cargo from New York?

A. Whether or not it loaded or discharged its general cargo at New York is not controlling. If it loaded or discharged general cargo at one or all of those ports, it was included.

Q. Turn to page 93, please.

The third ship from the top is the MACALESTER VICTORY. Now, that vessel did not load or discharge [fol. 891] general cargo at the Port of New York, and it was an MSTS vessel, is that right?

A. I do not know that it is MST or not.

Q. How about the other fact I asked you? Did she load or discharge at New York?

A. It had no loading or discharging at New York. We did not know the records over here, in the clear, were incomplete, and we put the question mark, there, but we would not count that ship in any tabulation or in any summation.

Q. Turn to page 22, please.

A. 22?

Q. The Mankato Victory. No cargo in or out of New York and an MSTS ship, right?

A. I do not know whether it is MSTS or not, but it discharged general cargo at Hampton Roads.

Q. Discharged general cargo at Hampton Roads?

A. Yes, sir.

Q. Your point, I take it, is they were available for general cargo loading or a general cargo ship that called at New York, is that it?

A. Well, it would not be looked upon as being available—if you take the complicated itinerary like we had, we had to make certain distinctions. If it was on a general cargo run, it could have loaded or discharged at any of the ports visited. Why it did not, we did not know.

Mr. Macleay: I call counsel's attention just in the interest of a complete understanding to the fact there are many more such instances of vessels calling but not loading or unloading at the other ports than there are at New York. If you take a look, you will see that is quite apparent.

[fol. 892]

By Mr. Moerman:

Q. Now, you have testified concerning the jeopardy to your general cargo on foreign trade on page 29 of your larger statement, through the loss of rate differentials, and you have submitted some substantial exhibits with respect to sailings from the various ports.

Are you familiar in the course of your work with the trend of sailings at Baltimore, so that you can tell us whether it is up or down or static?

A. Well, it is up in relation to recent years.

Q. Do you expect the improvement to continue?

A. It depends on business conditions.

Q. Is that equally right or true at other ports?

A. Presumably it would be.

Q. Could you tell us to what extent percentagewise there has been an improvement in sailings at the Port of Baltimore, compared with 1951 and 1956?

A. I do not recall what the 1951 figures were, but we had 6,000, 6,069 vessels arrive, 6,069 vessel arrivals in 1957. That is all types of vessels, even those that come in to be dry-docked.

That includes every ocean-going vessel arriving at Balti- [fol. 893] more it does not mean general cargo or commercial vessel.

There are some ships that come in to Baltimore for repairs, dry docking and go out, they come in in ballast and go out in ballast.

So the total number of ships is only a general index as to the over-all harbor activity.

Q. Does it sometimes occur the vessel calling at the Port in one year sails outbound for say two ports and in the following year extends its route so that it calls at a dozen ports, does that happen?

A. Well, I am not that familiar with the itineraries of specific vessels or lines of vessels to comment on that.

Q. I was trying to get, Mr. Hamill, some information with respect to whether there has been, not only a growth in vessel numbers and sailings, but also in extension of the ports of call by vessels which have already been coming to and from the Port of Baltimore?

A. I could not tell that from my information, because I get only total figures from the Maritime Exchange in Baltimore. They publish them each month.

There is nothing in those figures that would indicate the extent of the vessel itineraries with respect to other ports.

Just the arrivals at Baltimore.

Q. Do you know whether you have pending before the [fol. 894] Maritime Administration, applications for inclusion of the Port of Baltimore in connection with various trade routes of subsidized lines?

A. I am not familiar with any application.

Q. Are you familiar with the practice of U.S. flag lines in calling at the North Atlantic range of ports?

A. As such, no, sir.

Q. Do you know what restrictions or regulations may be imposed upon them with respect to calling at one or more North Atlantic range ports?

A. No, sir.

Q. Could you tell me whether, in connection with your exhibits showing sailings, the vessels there shown, the so-called general cargo vessels, are predominantly U.S. flag vessels?

A. Well, we made no particular study as to what the flag was, although the Maritime Commission does have a key on there as to what flag the vessel sailed under. But we had so much decoding to do, we did not go into that, that would make an additional step for each one. Each port had to be decoded, each foreign port had to be decoded, and every vessel had to be studied from the standpoint of interpreting the code.

Q. Do you know whether vessels carrying cargo to and from the Port of Baltimore are predominantly U.S. flag?

A. I could not comment on that, no, sir. I could not say [fol. 895] what proportion it would be.

Q. Could you tell me whether there is any particular class or type of vessel which is basically the so-called cargo-carrying vessel—by type of ship?

A. You mean like the Liberty Ship?

Q. Victory, Liberty.

A. Victory ships, C-3's or whatever they are.

Q. Liberties, Victories, C-2's, 3's and 4's, that is so, isn't it?

A. They are general cargo vessels, yes, sir.

Q. Is there any shortage of vessel calls at the Port of Baltimore so far as you know?

A. Well, I am not in a position to know.

Q. You are just giving us the figures?

A. Well, I went through this and developed the figures, but they did not include any aspect as to deficiencies or surpluses of any particular service.

Q. Well, you testified that a decline in shipping not only would reduce port revenues and create unemployment in many port dependent and port-linked industries, but also would discourage further investments in new pier facilities and equipment?

A. That is right.

Q. Is it your testimony that the removal of the existing rate differential would bring about a decline in shipping? [fol. 896] A. We think it would destroy part of our competitive advantage, and therefore conceivably there would be a loss of tonnage. With a loss of tonnage, you would have loss of service and loss of jobs.

Q. Can you tell us to what extent the general cargo ves-

sels shown in your exhibits here carried differential territory cargo in or out?

A. We could not show from the standpoint of these ships what they carried in or out as to origin or destination of the cargo.

Q. What do you base your opinion on, then, there is going to be a decline in shipping? Is it an opinion?

A. Do you mean decline in shipping by the loss of the differential?

Q. Yes, sir.

A. I think there would be. There is no way to prove the point, but I think there would be. We have had that advantage for all these years. We have been trying to build up our business in the face of superior service and all at New York, and if New York had a parity of rates I feel we would be at a serious disadvantage.

Q. Does New York have superior service in the matter of terminals for loading grain as compared with Baltimore?

A. Well, it does not have the same grain capacity, but I do not know to the extent the type of grain service up [fol. 897] there, why I could not comment whether we would be more favorably situated than we would or not.

We might be as far as whole cargoes are concerned, but you might be better situated with respect to partial grain cargoes.

I think that is the case from what I have seen up there.

Q. But you are better situated with respect to the shipload grain cargo?

A. That is right, which would be bulk cargo, a whole shipload.

Q. Do you know whether New York is better situated with respect to loading and unloading of things like chrome, ferro-manganese, bauxite ores, other than iron ore?

A. I would not be familiar with the facilities up there on that.

Q. So when you talk about superior facilities, I take it—

A. Over-all facilities. I mean I have been in New York many times and looked around and got all the berths, and you have a lot of services there, banking, warehousing, import and export housing and so forth, that it gives you

the distinct impression that New York has some very fine things to appeal to the export and import of cargo.

It would appeal to me if I were exporting and importing cargo.

Q. Do you know how the railroads at Baltimore and the [fol. 898] railroads at New York make out with respect to export and import cargo in view of the differential?

A. Precisely on that point I could not say what proportion of the cargo the rails handled or what others handle.

I mean, the business has never been isolated in general terms before.

Q. You have testified, have you not, concerning direct sailings from New York and Baltimore and other ports?

A. Based upon our study of the Maritime Commission records, yes, sir.

Q. Out-bound, where the vessel calls at Baltimore, stops off at New York and goes on, and Baltimore is the first port of loading, is there any advantage inherent in that fact?

A. Well, generally speaking, we look on the idea of superior quality of service, better quality of service, if you have the first arrival and the last departure, because that enables a man, like this morning, I came over on the B & O, I live mid-way between Mount Royal Station and Camden, there is 5 minutes savings in time to Camden, so I went down to Camden to pick up that 5 minutes.

That was a later departure time for me, and that is the same way for a shipper in the mid-west to get his cargo on board, if he had 3, 4, 5 or 10 more days to get it on there, it would be an advantage in a great many instances.

[fol. 899] Q. Well, is it not a fact that a great many vessels out-bound begin at Baltimore and top-off at New York and then go on?

A. Well, I know topping off at New York is a primary characteristic of the trade.

Q. Why don't your answer my question? Is it not a fact they begin at Baltimore, load initially, and then go on up the North Atlantic range?

A. I mean as a general practice, I could not say for the predominant number of vessels, I could not say the proportion that do that, some of them do, obviously.

Q. I cannot understand why you can't say: You testified concerning direct sailings and indirect sailings.

A. From my record I canot say how many of them right off came to Baltimore first and went and topped off at New York.

Q. A great deal is made in this case that New York is the last port of call.

Now, where Baltimore is the first port of call, is it not a fact that there is an inherent advantage in the sense that the vessel can load here both bottom cargoes, the heavy-loading type of cargo which is prime railroad traffic, is not that a fact?

A. They can get the bottom cargo on, but what we have been after is more of the top cargo, this general cargo, this [fol. 900] package freight we have been talking about.

Mr. Moerman: I would like to have the answer read, please.

Mr. Marbury: I object to the question on the ground it has two or three different assumptions in it.

Mr. Moerman: Let us hear the answer.

It is on the record.

Mr. Macleay: Let's hear the question, too.

Exam. Boat: Let's have the question, please, and the answer.

(The reporter read the record.)

By Mr. Moerman:

Q. You want the package freight, Mr. Hamill, to better balance out your port because as you say it is a 90 per cent bulk port, is that right?

A. Not only that, we want to balance it out as it also produces more direct revenue support than the handling of a ton of iron ore, for example.

Q. Does it make any difference to you whether or not the package or merchandise traffic that you hope to get moves into your port and out of your port by rail or truck, or water carrier?

A. Well, looking from the port as a whole, I mean the people there are interested in the total volume of business, and each segment of transportation, we have a competitive

transportation system, that has to play for the traffic. I [fol. 901] mean we do not attempt to guide any one avenue, whether a person goes by bus, rail, or air, or anything, any more than we do guide, we want the business for the port, it is up to the different transportation agencies to sell their services to suit the public, and the shipper as a rule determines how the merchandise moves.

Q. Referring back again to your direct and indirect sailings.

Where Baltimore is the first port for loading out-bound, bearing in mind your testimony a moment ago about banking, isn't it a fact that because Baltimore may be the first port—that the exporter can get his on-board bill of lading at Baltimore long before he can get it at New York, present it to the bank, and get his money?

A. Well, I am not familiar with the fiscal transactions there to comment on it.

Mr. Moorman: Mr. Examiner, that concludes my cross-examination.

Exam. Boat: Is there any further cross?

Mr. Welsh: No questions.

Exam. Boat: Mr. Miller, you may cross examine.

Cross examination.

By Mr. Miller:

Q. Mr. Hamill, as I understand it, your comparisons made in your testimony and exhibits are for the primary purpose of comparing Baltimore and New York, is that right?

[fol. 902] A. Well, this was a cooperative exhibit, that the people in Philadelphia worked on it, and people in Baltimore worked on it, the greater Philadelphia Chamber of Commerce, the Delaware River Port Authority, the Maryland Port Authority, and the Baltimore Association of Commerce cooperated in producing this particular exhibit, and we showed the comparable data, the corresponding data for Boston, New York, Philadelphia, Baltimore, and Hampton Roads.

Q. Now, would you say on the basis of that data that

Philadelphia has comparable advantages over Baltimore as compared with New York?

A. Well, we did not look at—personally I did not look at Philadelphia. I looked at the Baltimore figures and the comparisons and contrasts I drew up there were entirely for Baltimore, and I did not pay much attention to Baltimore, Philadelphia or Hampton Roads for my particular part of the picture.

Q. Well, do you have any conclusions as to whether or not rates as between or to and from Baltimore should be equalized with Philadelphia?

Mr. Macleay: Mr. Examiner, I am going to object. That is not an issue in this proceeding. It is not what we were able—we were not able to elicit similar answers from Mr. Miller's own witness, because it is not in issue.

I object.

[fol. 903] Mr. Miller: I do not remember that question at all.

Mr. Macleay: It was not that question, a somewhat similar question, Mr. Miller objected violently.

Exam. Boat: Read the question, please, Mr. Reporter.

(The reporter read the pending question.)

Exam. Boat: This witness has not gone into the question of rates, primarily, Mr. Miller, I do not believe.

His testimony is generally on the services.

He may answer.

The Witness: I had no opinion, I had not given it any study or thought, I have no opinion, therefore, to express on that.

By Mr. Miller:

Q. Now, in your study of the facilities or the services in and out of Boston—

Mr. Macleay: Mr. Examiner, did the witness testify he had made any study of facilities in and out of Boston?

Mr. Miller: He certainly did. He has them in his exhibits.

Mr. Macleay: Facilities?

Mr. Miller: Sailing facilities, and services.

Mr. Macleay: I just wanted to understand what we are talking about.

By Mr. Miller:

Q. Does Boston have the same advantages over Baltimore and Philadelphia in that area equal to the advantages of New York?

[fol. 904] A. I have not drawn any conclusions as far as Boston, Philadelphia, or Hampton Roads are concerned. My analyses are all related to Baltimore, as far as they have the distinction of services shown in my exhibit.

Q. Why did you include Boston in your exhibits?

A. It showed the complete domestic itinerary.

That was the idea of our group study, to show the complete domestic itinerary of every general-cargo vessel showing the northern range ports and Hampton Roads, and Boston.

We thought it better to put it in than leave it out, it showed the whole itinerary.

Q. Why didn't you also include a study of ships in and out of Albany and Portland?

A. Well, I can't say why we did not do it, but the idea when our group study went in was to show these major ports. They were the major ports handling the greatest quantity.

Q. As I take it, then, your exhibits do not show any reasons why there should not be equalization except as between Baltimore and New York, is that a fair inference?

A. You could draw a lot of things from these exhibits. What we have drawn from ours shows that New York has a preponderance of excellent steamship service in relation to Baltimore.

Q. Do you know of any reason why from the standpoint of available services, rates between—the rates to and from the [fol. 905] New England ports and Albany should not be equalized with Baltimore?

A. I had not gone into the rate question. I am not in position to comment on these questions of rates. My aspects here are based on the steamship services, and the economic value to Baltimore, and I do know if we lose that,

our particular advantage, we would suffer severe economic consequences.

Q. Well, would you suffer severe economic consequences if you—if Boston had the same rates as Baltimore, to and from differential territory?

Mr. Macleay: Mr. Examiner, if by that counsel means if Boston has a relationship with Baltimore without New York having it, again I submit that is not the question before the Commission, and I do not think it is proper for counsel to try and question this witness about something that we are not here to consider.

There has been no such proposal made by anyone in this case, not even by Boston.

Exam. Boat: Does your question contemplate that?

Mr. Miller: It is my understanding that the proposal is to, at least it is by the respondents, to equalize Boston rates with Baltimore, as well as New York.

Mr. Macleay: I do not think counsel understood you.

My objection is, if by that, he means by his question to [fol. 906] ask the witness if he would object to Boston being equalized with Baltimore, if New York were not equalized.

Mr. Miller: I did not say a word about New York.

Mr. Macleay: Well, if, on the other hand, he is asking the witness—

Mr. Miller: Mr. Examiner—

Mr. Macleay: May I finish my objection, please?

If, on the other hand, Mr. Examiner, he is asking the witness whether he objects to Boston and New York being equalized with Baltimore, I think the witness already made it very clear.

Mr. Miller: Mr. Examiner, I think Mr. Macleay's objections are not objections at all; they are in the nature of coaching the witness.

Mr. Macleay: I resent that, Mr. Examiner. This witness does not need coaching. I resent it on behalf of the witness.

Exam. Boat: No, the witness seems to be well versed in this particular field, and I do not know whether—

Mr. Macleay: I object to getting into things that are not in issue here, Mr. Examiner.

Mr. Foley: Mr. Examiner, that is clearly in issue; Boston is asking for the equalized rates with Baltimore, and regardless of what happens at New York or otherwise.

Mr. Keenan: I am glad to concur in Mr. Foley's advice to the Examiner.

[fol. 907] Exam. Boat: Is there any question now in view of that statement?

Mr. Foley: There is no contingent tariff in this case, Mr. Examiner, it is a tariff putting Boston on the Baltimore base.

Mr. Miller: Do you want to read the question to him?

The Witness: No, I am waiting for the Examiner.

Exam. Boat: Can you answer it now?

The Witness: I have made no study of the Boston situation as far as the rates are concerned. I had no way to reach a valid opinion in answer to your question. I mean, I can conceivably bring in the standpoint there, if Boston had a Baltimore rate, without New York having it, we would get in to certain abstract things, even though the tariff may ask for the ultimate Baltimore basis, without a reference to New York. The two of them have been going along on this set-up for a long while, Boston taking the New York rates—

Mr. Foley: Mr. Examiner, I object. This is not at all responsive.

Mr. Macleay: Are you objecting to the answer or the question?

Mr. Foley: I am asking that it be stricken.

Mr. Marbury: If you ask the witness, he does not know anything about it.

Mr. Foley: He says he does not know anything about it. [fol. 908] Then he goes on with a speech.

Exam. Boat: I did not think we are in a field here where this witness can help us out very much.

By Mr. Miller:

Q. I want to ask one more question, then I will be finished. Do not your exhibits show that Boston, which is the only New England Port that you show, suffers the same or even

more service disadvantages in respect to New York than does Baltimore?

A. Other than analyzing, checking the data, and helping to edit the data and looking at it in there, that is all the attention I paid to Boston.

I had no general conclusion on Boston like I have on Baltimore, because I looked at the Baltimore figures specifically.

Q. Then you cannot answer my question?

A. No, sir.

Mr. Miller: That is all I have.

Thank you.

Exam. Boat: Redirect examination?

Mr. Macleay: No redirect.

OFFERS IN EVIDENCE

I offer exhibits 70 and 71 with their respective attachments.

Exam. Boat: Those exhibits as previously identified will be received in evidence.

[fol. 909] (Exhibits 70 and 71, Witness Hamill in support of Protestants were received in evidence.)

Mr. Macleay: Thank you very much, Mr. Hamill.

Exam. Boat: You are excused, Mr. Hamill.

(Witness excused.)

Exam. Boat: We will recess for 10 minutes, please.

(A short recess was taken.)

Exam. Boat: Come to order, please, gentlemen.

Mr. Macleay: Mr. Examiner, the next witness on the list is Mr. Joseph Stanton. Unfortunately, Mr. Stanton, who was here Friday but could not get on the stand at that time, was injured on Sunday and is laid up.

I would like to ask your indulgence and that of the counsel for the other side, that we may present him at the March 25th session.

Exam. Boat: Mr. Miller is not here. We will have to inquire when he returns.

Mr. Macleay: I cannot produce him now, sir, because he is laid up. He fell on Sunday and I understand that he is quite painfully injured and is not up and around. It will be some days before he is.

Exam. Boat: I suggest we go down to the next witness.

Mr. Macleay: The next in order—shall we take them in order, Mr. Examiner?

Exam. Boat: Yes.

[fol. 910] Mr. Macleay: The next in order has not even been called.

Exam. Boat: Mr. Davis.

Mr. Macleay: Mr. Davis' verified statement was transmitted to all parties. I ask that it be marked for identification and received in evidence.

Exam. Boat: It will be identified as exhibit No. 72, together with the appended exhibits.

Mr. Macleay: There are quite a group of exhibits appended to it, Mr. Examiner.

(Exhibit No. 72, Witness Davis, in Support of Protestants was marked for identification.)

Mr. Macleay: Is that received in evidence?

Exam. Boat: You have identified it. It will be received in evidence as exhibit 72.

(Exhibit No. 72, Witness Davis in Support of Protestants was received in evidence.)

Mr. Macleay: Similarly I offer the verified statements and exhibits of Frederick H. N. Heemann, Transportation Department, Maryland Port Authority. The Exhibit is Exhibit 3, which is designated "Corrected Exhibit" such corrected exhibit having been distributed to the parties sometime after the original distribution.

Exam Boat: Off the record.

(Discussion was off the record.)

[fol. 911] Exam. Boat: On the record.

That may be identified as No. 73.

(Exhibit No. 73, Witness Heemann in support of Protestants was marked for identification.)

Exam. Boat: If there is no objection, it is received in evidence.

(Exhibit No. 73, Witness Heemann in support of Protestants was received in evidence.)

Mr. Macleay: Mr. Examiner, I ask that the verified statement of Henry K. Hildebrand, together with the exhibit attached thereto, be marked for identification with the next number.

Exam. Boat: That will be identified as No. 74.

(Exhibit No. 74, Witness Hildebrand, in support of Protestants is marked for identification.)

Mr. Macleay: Mr. Hildebrand was originally called for cross examination by counsel for the Respondents, but they have advised me they do not desire to cross-examine him, so I ask his verified statement and the exhibit be received into evidence.

Exam. Boat: That will be received as No. 74.

(Exhibit No. 74, Witness Hildebrand, in support of Protestants was received in evidence.)

Mr. Macleay: I call Mr. Footner.

GEOFFREY M. FOOTNER a witness was sworn and testified [fol. 912] as follows:

Direct examination.

By Mr. Macleay:

Q. Will you please state your name and business connection for the record?

A. Geoffrey M. Footner, Partner of Footner & Company, Foreign Freight Forwarders, Baltimore, Maryland.

Mr. Macleay: I ask that Mr. Footner's verified statement be marked for identification with the next exhibit number.

Exam. Boat: It may be identified as No. 75.

(Exhibit No. 75, Witness Footner, in support of Protestants was marked for identification.)

Mr. Macleay: The witness is tendered for cross-examination.

Mr. Colgren: He was called apparently by Mr. Miller who has not yet returned from the recess, Mr. Examiner.

Mr. Moerman: Let me see if I can find Miller; give me a second.

Exam. Boat: All right.

Cross examination.

By Mr. Miller:

Q. Mr. Footner, your principal competition as I understand it as far as obtaining export and import shipments is with the Port of New York?

A. That is correct.

Q. To what extent do you have any similar competition with Hampton Roads ports?

[Vol. 913] A. I have no precise figures. There are probably isolated examples of competition, but we do not notice it to any great extent.

Q. How about Philadelphia?

A. Well, I would say even less than Hampton Roads.

Q. Why is that?

A. I am not sure why it would be true, except that as far as our own business is concerned it is of a nature that we do not run into shipments that are running out of Philadelphia.

Q. How about Albany?

A. No.

Q. None at all.

A. Well, I can recall that as an isolated example, Albany was a factor as far as some grain shipments in the past, but I have no explicit information.

Q. How about Boston?

A. No.

Q. You have no competition at Boston?

A. None that I know of.

Q. How about Portland?

A. No.

Q. Would you say that Boston and Portland would have the same disadvantages with respect to New York as does Baltimore?

A. I am not too familiar with the advantages or disadvantages of Boston and Portland, that is, as far as the [fol. 914] differentials are concerned.

I am fairly familiar with the differentials and their effect on Baltimore as compared with New York.

As far as the other advantages in steamship service and supplementary services that New York has, since New York is dominant in the industry, I would assume that they have—New York has advantages over Portland and Boston.

Q. Would you say the same thing is true as to Philadelphia?

A. That New York has advantages over Philadelphia?

Q. The same approximate disadvantages as Baltimore has?

A. Wait a minute, disadvantages or advantages?

Q. Advantages, I am sorry.

A. New York has advantages over Philadelphia, yes.

Q. About in the same degree as Baltimore does?

Mr. Macleay: Just a moment, may I have the question read?

(The question was read back by the reporter.)

Mr. Macleay: Advantages over Philadelphia?

Mr. Miller: Has advantages over Philadelphia?

The Witness: New York has the same advantages over every port on the North Atlantic Seaboard.

Mr. Miller: Those are all the questions I have. Thank you, sir.

Mr. Macleay: Thank you very much, Mr. Footner.

OFFER IN EVIDENCE

I offer Mr. Footner's verified statement, exhibit 75, I [fol. 915] believe.

Exam. Boat: That will be received as exhibit 75.

(Exhibit No. 75, Witness Footner in support of Protestants was received into evidence.)

Exam. Boat: You are excused, Mr. Footner.
Mr. Macleay: Thank you very much.

(Witness excused.)

Mr. Macleay: Mr. Shapiro.

SAMUEL SHAPIRO was called as a witness and being sworn, testified as follows:

Direct examination.

By Mr. Macleay:

Q. Will you please state your name and business connection for the record, Mr. Shapiro?

A. My name is Samuel Shapiro, president of Samuel Shapiro and Company, Forwarders and Owners and Custom House Brokers in the Port of Baltimore.

Mr. Macleay: I ask that Mr. Shapiro's verified statement be marked for identification.

Exam. Boat: It may be identified as No. 76.

(Exhibit No. 76, witness Shapiro in support of Protestants was marked for identification.)

Mr. Macleay: The witness is tendered for cross-examination.

Mr. Miller: May I go ahead, Mr. Examiner?

[fol. 916] Cross examination.

By Mr. Miller:

Q. On page 2 of your statement, you make this—you have this sentence: "From my experience, the other North Atlantic Ports south of New York are in about the same situation as ourselves, and the Port of Baltimore, so far as concerns competition with New York."

Why did you restrict that statement to the Atlantic ports south of New York?

A. Well, of course, Baltimore has always been in a unique position, as I say, God gave us a spot practically at

the top of the Chesapeake Bay, and notwithstanding the fact we are closer to and from the entire interior as against New York, Philadelphia and Boston who are not—of course I think I said here, south of New York.

Q. I am speaking now of your competition with New York, not the fact of your geographical location.

What is your competition? Why did you restrict that statement with respect to New York competition to the Ports south of New York?

A. What sentence do you say that is?

Q. About the middle of the page No. 2.

A. Well, New York as we all know, has the superior services far exceeding anything that the Ports South of New York have, which is Philadelphia and also Hampton Roads.

[fol. 917] Q. Is there any superiority as between the ports south of New York in this competitive field—that is, does Philadelphia have any competitive advantages over Baltimore, or vice versa?

A. I think so, I think some of their piers today are more modern than the piers we have in Baltimore.

Q. You mean Philadelphia piers are more modern?

A. Yes, I think so.

Q. Than Baltimore piers?

A. Yes, sir. They have one or two piers. Particularly I think pier 98, south, if that is the correct number.

Q. Are these general cargo piers?

A. Yes, sir, general cargo piers.

Q. Is that the reason why Baltimore is planning to build more general cargo facilities?

A. Yes, sir, that is one of the reasons, obviously.

Q. How about Hampton Roads, does it have any superior competitive advantages?

A. Outside of the fact it is practically at the open sea. To be perfectly frank with you, while Hampton Roads is a competitor of Baltimore, we do not put as much stress on Hampton Roads as we do New York and our next competitor, Philadelphia.

Q. Now, what is the competitive situation with respect to ports north of New York? How about Boston?

A. Well, we haven't from the standpoint of our own busi- [fol. 918] ness, we have not paid too much attention to Boston.

I think it is pretty far north and we believe, that is our own philosophy has been that Boston is really not the proper port for CFA territory. It is just 2 or 3 hundred miles away from you might say, comparing it with the Port of Baltimore, just a distance of about 100 to perhaps 250 miles farther away than it would be from Baltimore —that is, to Baltimore.

Q. Does Boston have these superior services as accredited to New York?

A. I do not know. I have not made too much of a study of Boston facilities, pier facilities and so forth, I could not answer that question.

Q. How about Portland?

A. I don't know much about Portland.

Q. How about Albany?

A. Outside of the fact it is a man-made port, I do not know much about Albany.

Q. So these ports north of New York are not really competitive in your business, is that right? A. As far as our business is concerned, yes.

Mr. Miller: Those are all the questions I have, thank you, sir.

Mr. Macleay: I offer exhibit 76.

Mr. Moerman: Excuse me, we are not through yet.

[fol. 919] Mr. Macleay: I thought you told me you did not want him?

Mr. Moerman: I did not say that.

Mr. Macleay: Mr. Foley advised your side did not care to cross examine him.

We had word from Mr. Foley that your side had waived.

Mr. Foley: You had word from me I waived it.

Cross examination.

By Mr. Moerman:

Q. Mr. Shapiro, how long have you been in the forwarding business in this area?

A. About 42 years.

Q. You have an office here in Washington, have you not?

A. Yes, sir.

Q. I have had the pleasure of doing business with your firm.

In that connection, the type of merchandise which is imported and handled by you is generally high-value merchandise, is not?

A. Not necessarily. There might be some high-value merchandise, but I think the greatest majority of the shipments are medium or low-value merchandise.

Q. If we should go together to the customs house here in Washington in Georgetown, and look over the shipments which you are handling, we would find things like wines, would we not?

A. That is right.

[fol. 920] Q. And we would find imported ceramics?

A. Yes.

Q. From Italy?

A. I want to answer that question. You remember, Washington is not a seaport.

Q. Yes, I am coming to Baltimore in a moment; I just wanted to find out and inquire a little bit about your business.

I take it you handle a great deal in the way of imported merchandise for the local embassies, do you not?

A. From time to time; yes, sir.

Q. All right, so much for that.

Going down now to Baltimore, have you any clients in the grain business at Baltimore, or in the interior?

A. No, outside of perhaps handling some government grain from time to time.

Q. But not as a regular part of your business?

A. That is right.

Q. Have you any clients who import or export ores like chrome, manganese, or others?

A. From time to time, yes, we have had some clients—importing ore, not exporting ore.

Q. Importing ore?

A. Yes.

Q. And the volume of such shipments is in what magnitude, in tons?

[fol. 921] A. Well, anywhere from 100 to perhaps 1000 or 2000 tons.

Q. Now, will you tell us, please, when the ore comes in, is it stowed loose in the hold of a vessel, is it in barrels, bags, drums, or boxes?

A. It is chiefly in bulk. Occasionally there may be certain classes of these ores that might be in barrels or in drums.

Q. Chiefly in bulk?

A. Chiefly in bulk, yes, sir.

Q. Is it stowed in the lower holds of the vessel?

A. I think so. I cannot qualify that. I mean, I can't give you a definite answer, but I assume so.

Q. You are not familiar with the technique?

A. Of the stowage of the particular cargo.

Q. Have you ever handled any locomotives in export service?

A. Not to my knowledge—oh, yes, I think about two or three years ago we handled several that moved to the West Indies Port. That was about it.

Q. How about heavy machinery? Does that form a large part of your business?

A. No, sir.

Q. How about automobiles?

A. Import at the present time, yes.

Q. Import?

A. Yes.

[fol. 922] Q. Are you able to tell us to what extent the commodities which you render service move by rail in or out as against the truck?

A. That is an awfully hard question to answer.

Q. Well, if you know, sir, I just want information about what you know.

A. It has been my experience, the heavier materials, these bulky materials come in and go out by rail.

Q. Of course they do.

A. And the lighter commodities, less truckloads, truckload lots, quantities, larger quantities, would come in in truckloads, or less-truckload or truckload lots. When I give

you the percentages, really it is an awfully hard answer to give.

Q. Now, you testified with respect to the superior services at New York?

A. Yes.

Q. And in that connection you refer to this traffic you have just mentioned which refers to—which moves in and out in less truckload lots, is that not right?

A. That is right. Pardon me, may I with your permission, give you a little explanation of something that transpired during the two intervals, when the Port of New York was on strike, with your permission?

Q. I would love to have it.

[fol. 923] A. Back in 1951, and I believe it was in March, if I am not mistaken, of 1951, and in November, 1954, New York was strikebound.

Many of the ships, I think a greater percentage of the ships, if I am not mistaken, were sent to Baltimore. The Port of Baltimore happily took care of the cargoes coming in. Of course we had quite some problems on our hands.

Q. But you had adequate facilities to take care of the cargo?

A. No, it was almost the same as trying to push an elephant through the eye of a needle, to be perfectly honest with you, but the Port worked 24, perhaps if there is such a thing as 36 hours a day. The ships were unloaded, export cargoes came in to Baltimore, to go aboard these vessels.

The strike was finally settled. We expected the Port of Baltimore would enjoy at least a fair volume of this business because a goodly quantity moved to or from CFA territory.

Of course, a great percentage moved to New York. So the Port of Baltimore had an idea that we would at least enjoy some of this business when things became normal, but lo and behold, when things did become normal, we found that the business that we had received from New Clients through Baltimore was so infinitesimal that you practically could not recognize it.

Now, to my way of looking at it, the clients had taken [fol. 924] into account the fact that we did not have direct

sailings, in other words, we just simply were the same port as we always were.

Of course, it is the old story, if you travel by airplane, you travel by air plane, but if, by chance, there is a snow storm, you use a train, and that was the situation.

Q. Yes.

Now, tell me a little more if you will, about these clients. Tell me in general what type of traffic was it that came to you that you hoped to retain?

A. Well, there were so many items of merchandise, to be truthful with you, we had never heard of. There were many food products, there were figs, there were canned tomatoes and manufactured items, and there were many, many commodities—

Q. Imports or exports?

A. Imports.

Q. The figs, of course, were imports?

A. There were commodities moving through the port we had never handled.

Q. How many figs did you get?

A. As I recall, I think they ran into tens of thousands of cases.

Q. Where did they move to?

A. Well, I do not recall, but they moved to the terri- [fol. 925] tories in the Middle West, some went to New York, some went south; I do not remember exactly.

Q. Do you recall how much moved by truck outbound as against by rail?

A. I do not recall. I do not remember. I do know the railroads really enjoyed a tremendous volume of all that business.

Q. Are you able to tell us from your experience what proportion of your import business moved out-bound to the interior by rail, more than say 400 miles?

A. That is an awfully difficult question to answer. I would have to refer to my records to find it.

As I said before, bulky materials, irons and steels, would move by rail. Light items would move by truck—lighter items would move by truck—that is.

Q. Outbound you would have the same difficulty giving

us the figures, what comes to you by rail from the interior as against what comes to you by truck?

A. Yes, sir.

Exam. Boat: Under those emergency conditions that you spoke of there, Mr. Shapiro?

The Witness: Yes, sir.

Exam. Boat: Would it not be true that the trucks probably had considerable business before this happened and they would not be available to the same extent as rail transportation might be available for handling those emergency [fol. 926] shipments?

The Witness: Yes, sir. We had quite a problem at the Port of Baltimore at the time because our facilities were such you could not get too many trucks on the pier at one time and by necessity a goodly quantity of the merchandise had to move by rail.

By Mr. Moerman:

Q. Do you have any offices at any other point other than Baltimore and Washington?

A. No, sir.

Q. How many employees in your firm?

A. I think we have thirty-some, I do not remember.

Q. About 30?

A. About 30?

Q. For how long have you had 30 employees?

A. I guess a couple of years.

Q. Do you have any solicitors on the road?

A. Not continuously. We make periodic trips, oh, three, four, or five times a year.

Q. Are you familiar at all—strike that.

In your forwarding business, do you handle any bulk cargoes of ore, grain, gypsum, commodities like that?

A. Our company?

Q. Yes, sir.

A. Well, as I said before, we handle some ores and from time to time some government grain, gypsum, I do not [fol. 927] remember. We might have.

Q. Sugar?

A. Oh, we may have from time to time. You see, we handle diversified items, anything that may come along, and it might have been 2, 3 or 4 years ago and I do not remember.

Q. But the large and regular volume of your business is merchandise?

A. Merchandise and also—when I say merchandise, of course that covers bulk items as well as general cargo—merchandise, yes.

Q. Well, I was trying to make a distinction here between merchandise or package freight on the one hand, and bulk freight on the other.

What do you understand by bulk?

A. Well, bulk is items such as coal, grain, ores, petroleum products that may be packed in drums and so on, items of that character. That is it, items of that character.

Q. In your statement that New York has superior services, did you intend to imply that New York has superior services with respect to the bulk commodities you have named?

A. No, but I will say this, that is based on information I received, of course, this goes back to 1947, now, and I am sure that the situation is principally the same, where I had seen that the port of New York, of all the cargo it had handled at any given period, that the general cargo, as it [fol. 928] is termed, constituted about 85 per cent of the over-all picture, and we take Baltimore on the other hand, it was just the reverse, it was between 12 and 15 per cent of general cargo, as against 85 to perhaps 90 per cent of bulk cargo. That gives you an example.

Q. Do you have any control over whether or not rail or truck is used in connection with exports moving from the interior?

A. Oh, sometimes we might. We can suggest to a shipper to send an item in by truck, if by chance there might be a time element entering into it.

Q. What do you do then?

A. We might recommend to them to send it in by truck, provided a truck can handle it.

Q. How about imports? Is the situation the same?

A. The same way, yes, sir.

Q. Does the freight rate figure in any way in your fee as a forwarder?

A. Oh, no.

Q. So, it is immaterial to you whether the freight moves by truck, rail, or some other method like air or water?

A. Exactly.

Mr. Moerman: No further questions.

Exam. Boat: That seems to be all.

OFFER IN EVIDENCE

Mr. Macleay: I renew my offer of Exhibit 76, Mr. Examiner.

[fol. 929] Exam. Boat: The exhibit previously identified will be received as exhibit 76.

(Exhibit 76, Witness Shapiro in support of Protestants was received in evidence.)

Mr. Macleay: I will call Mr. Connor.

WALTER V. CONNOR a witness was duly sworn and testified as follows:

Direct examination.

By Mr. Macleay:

Q. Will you please state your name and business connection for the record, Mr. Connor?

A. Walter V. Connor, proprietor of the Foreign Freight firm and custom house brokerage firm of John S. Connor.

Mr. Macleay: I ask Mr. Connor's verified statement, previously distributed, be marked for identification.

Exam. Boat: That will be identified as No. 77.

(Exhibit No. 77 Witness Connor in support of Protestants was marked for identification.)

Mr. Macleay: The witness is tendered for cross-examination.

Cross examination.

By Mr. Miller:

Q. Mr. Connor, near the bottom of page 2 you were asked this question:

"Do you consider the differential to be of an advantage to Baltimore?"

And your answer is:

"It is an advantage but only to a limited extent. [fol. 930] "We feel it takes very little business away from New York."

Do I understand you feel that there are other factors that are needed by Baltimore to take traffic away from New York?

A. There are a lot of factors that are enjoyed by New York, that we could use at Baltimore to fine advantage.

Q. Other than rate matters?

A. Rate is one of them that is important.

Q. As I understand it, you feel there are other competitive factors that ought to be introduced into Baltimore to attract traffic away from New York, is that right?

A. We would like to enjoy a lot of advantages New York has that we do not have.

Q. Could you enumerate some of those advantages you think Baltimore ought to have?

A. Well, to begin with, the foreign traders are almost confined to New York 100 per cent. The big business is done in New York and they like to have the freight moving through the Port where they are. In addition to that, the banking situation is very important, and the frequency of sailings and the wide scope of sailings is highly important, and the last port of call, which New York enjoys over the out-ports, is highly important.

Q. Now, do any of the other North Atlantic Ports enjoy those superiorities over Baltimore?

[fol. 931] A. I would not know.

Q. You don't know that any of them do?

A. I would not know. I am not too familiar with the foreign ports.

Q. In your business, do you feel the competition from those other ports?

A. Not very much.

Q. Does that go for Philadelphia as well as New York, or the other ports?

A. The foreign ports, North of New York, we do not have much competition, at least we do not feel them as far as our organization is concerned.

Q. How about Philadelphia?

A. Philadelphia is not too great a competitor. They are on certain commodities with their new facilities and so on, but they are not too big a factor.

Q. How about Hampton Roads?

A. Hampton Roads, we do not consider it as much of a disadvantage to us, other than on cargo that originates in that area which is natural to the port.

Q. Does the differential as between Baltimore and Philadelphia give Baltimore a competitive advantage over Philadelphia?

A. Slightly.

Q. Yes.

Mr. Miller: Those are all the questions I have. Thank you.

[fol. 932] Mr. Moerman: I have a question.

Cross examination.

By Mr. Moerman:

Q. Does your house specialize in any types of commodities, Mr. Connor?

A. No, we do not specialize. We will handle anything from the proverbial needles to a haystack.

Q. I did not hear the last part.

A. I said we would handle anything from the proverbial needle to the haystack—anything at all.

Q. How long have you been in business as the proprietor of John S. Connor?

A. Since 1940 I have been the proprietor.

Q. Prior to that time?

A. I was associated with them since 1917.

Q. What was the name of the predecessor?

A. The same firm, John S. Connor.

Q. Is that your father's firm?

A. My brother.

Q. Brother?

A. Yes.

Q. Could you give us an idea of the volume of freight in pounds or tons that your firm handled for the year 1957?

A. No, I would not be able to give it to you.

Q. Could you give us any general idea of its consist? Was it largely package freight?

[fol. 933] A. No. The minimum was package freight.

Q. And other items were what?

A. The other items would be well, say, ores—

Q. Stop right there and tell me what kind, please. What kind of ores?

A. All kinds of ores, various kinds.

Q. Name a few of them, will you?

A. Chrome, manganese, ferro-manganese, iron ore.

Q. That will suffice, unless you wish to name more. All of these ores are imported, are they not?

A. Yes, all ores are imported.

Q. With respect to chrome, does it move in in shiploads?

A. At times.

Q. The dead weight is what, 10,000 tons, 2500?

A. For a Liberty-type vessel, it will run around 9,000 tons, or less than that. The weight will put the ship down to their marks.

Q. And the origin of the chrome, if you know?

A. It is a lot of South African ore, Turkish ores.

Q. South African and Turkish?

A. Right.

Q. And you act as what, forwarder or customs house broker?

A. Naturally on anything imported, we act as the custom house broker, and carry it on to its ultimate destination.

Q. Yes. Now, in connection with chrome ores for the [fol. 934] year 1956, could you tell us approximately how much you handled in tons?

A. I would not have those figures available.

Q. Was it more than one cargo, Liberty cargo?

A. Oh, yes.

Q. It was?

A. Yes.

Q. More than a dozen?

A. I don't want to commit myself, because I would have to refer to my records, but we have ore accounts that continually are using the port of Baltimore on their ore importations.

Q. Is it a fact the bulk of the ore moved to Sparrows Point?

A. A lot of it moves in to Sparrows Point but there is a lot that does not move in to Sparrows Point.

Q. With respect to that which does not move into Sparrows Point, tell us where it moves, if you know.

A. It all moves out to particularly the Pittsburgh, and CFA territory out to the Cleveland, Cincinnati, Gary, all the points out in the Middle West.

Q. By what mode of transportation does it move?

A. Rail.

Q. And do you favor any particular railroad?

A. No.

Q. Do you control the routing?

A. In very few cases.

Q. And in cases where you do, do you favor any par-
[fol. 935] ticular railroad?

A. No, we put a vessel where the berths are available. There is a heavy volume of ore at many times, if we can't get a berth at one railroad, we will get it where we can, rather than delay the vessel.

Q. Now with respect to manganese, are the facts substantially the same as with respect to ore?

A. Exactly.

Q. Some moves to Sparrows Point, some moves to Pittsburgh and CFA territory?

A. Right.

Q. And invariably by rail?

A. Right.

Q. And does the manganese come in in bulk?

A. Some. I would say in the majority of cases it comes in in bulk. In some isolated cases it will come in drums or barrels, if they want to preserve the identity of small lots, or a higher grade of ore, they do not want to contaminate it.

Q. Is it not a fact manganese when it comes in drums is discharged from the drums at the dock and then loaded into rail car?

A. Quite often.

Q. That is an invariable practice?

A. I would not say invariable, but quite often.

Q. Quite often?

[fol. 936] A. Right.

Q. The reason for that is what?

A. We do not delve into the reasons for these things done, we follow the instructions of the importer.

Q. It is loaded into an open-top car in bulk, is it not, from the drums?

A. No, the ores are put in different types of cars, container cars and one thing and another. It is varied. It all depends on the type of merchandise and what the wishes and needs of the importer are.

Q. Have you ever known of a truckload shipment of chrome or manganese?

A. Not to my knowledge.

Q. With respect to ferro-manganese, is that the commodity?

A. That is one of the commodities.

Q. Yes.

Are the facts with respect to ferro-manganese substantially those which you have given us with respect to chrome and manganese?

A. Generally, yes.

Q. Does ferro-manganese move in as large volume as chrome and manganese?

A. Yes.

Q. Is it a higher grade commodity?

A. I would say so.

[fol. 937] Q. Does it come in in bulk or in drums?

A. It will come in bulk and in containers, also.

Q. When it moves out, does it move out by rail?

A. Yes.

Q. Does it move in the containers in the large majority of cases, or is it taken out of the containers?

A. In our experience, I would say that it goes out in bulk, in the majority of cases.

Q. By rail?

A. By rail.

Q. Now, ores were one of the categories that you gave us that your firm handles.

Would you give me another?

A. Coal.

Q. Coal?

A. Yes.

Q. And the coal is outbound, of course?

A. That is right.

Q. Does it come to the port by rail, if you know?

A. It does.

Q. Invariably?

A. In 99.44 per cent.

Q. What else do you handle?

A. We handle, the articles are too numerous to mention but it is steel products, and manufactured goods of all types.

[fol. 938] Q. Are the steel products outbound or inbound?

A. Both.

Q. Both?

A. Yes.

Q. Export and import?

A. That is right.

Q. Are they for local consumption, local delivery, do you know?

A. The majority of it goes to the interior.

Q. To the interior?

A. Yes.

Q. Does a good part of it move to the CFA territory which you mentioned?

A. Quite a bit.

Q. Is it divided between trucks and railroads, or is there some other proportion?

A. Steel invariably goes by rail.

Q. By rail?

A. It is more expensive to ship by truck.

Exam. Boat: Off the record, please.

(Discussion off the record.)

Exam. Boat: On the record.

By Mr. Moerman:

Q. Is Mr. Shapiro a competitor of yours?

A. Yes.

Q. Well, aren't your businesses somewhat different in [fol. 939] that you seem to predominate in heavy-moving commodities?

A. Well, it just depends upon your clients and accounts that you have.

Exam. Boat: The point is you hold yourself out for anything you can get?

The Witness: Anything at all. We do not specialize.

By Mr. Moerman:

Q. And so does he.

Now, Mr. Connor, in connection with the situation where you act as a freight forwarder on export traffic, isn't it true that your clients get his money by the presentation of a clean on board bill of lading to the bank which finances the transaction, if it is a financed transaction?

A. I was going to say not necessarily. All export transactions are not financed.

Q. I said if it was a financed transaction?

A. If it was a financial transaction, he would get his money I suppose, when he presented it and took care of his letter of credit.

Q. Yes, do you perform the service for him of presenting the clean on-board bill of lading to the bank so that your client may be paid?

A. In some cases. We are prepared to perform that service at all times.

Q. Now, on export traffic where New York is the last port of call and Baltimore is the first port of call, isn't it per- [fol. 940] fectly obvious that if the export traffic is loaded on the vessel at Baltimore, the on-board bill of lading can be presented for payment sooner than is the case of traffic loaded at the last port of call in New York?

A. Presumably so.

Q. Is prompt payment of any importance to your clients?

A. If it is a finance shipment, I would say yes.

Q. Now, with respect to New York being the last port of call, is that true with respect to—with regard to a great many sailings, or is it just an isolated situation?

A. No, it is a great many. It enables the large manufacturer to keep his production on a much better basis by that much more time to get it to seaboard as compared to Baltimore.

Q. On the other hand, if he wanted his money quickly, and could make a shipment at Baltimore, he could get it by presenting it, the on-board bill of lading at Baltimore, could he not?

A. He could do that, but there are hazards in connection with that. When he ships to Baltimore, he runs the risk of not having as frequent sailings as he does at New York, and if he should miss a sailing, he might miss his letter of credit.

Q. What is the situation with respect to sailings from Baltimore in your experience? Has there been any improvement in recent years?

[fol. 941] A. There might have been improvement in number of sailings over the years, yes.

Exam. Boat: May I interrupt?

Mr. Moerman: Yes, sir.

Exam. Boat: You referred to missing his letter of credit. Do letters of credit have expiration dates?

The Witness: Definitely.

Exam. Boat: I see.

Then there is another term you referred to "financed" transactions. Will you explain briefly how that works?

The Witness: Finance means simply the same thing when it is covered by a letter of credit. In other words, the foreign buyer will establish a letter of credit in this country with one of the banks, and as soon as the exporter from this country will comply with the terms of that letter of credit, then the bank will turn over to him the money provided the documents come to him before the expiration of that letter of credit.

By Mr. Moerman:

Q. Do you have any clients who use the Port of New York in connection with the import of chrome, manganese, ferro-manganese, or other ores?

A. Not that I know of. I presume they do. But I would not know.

Q. You do not know?

[fol. 942] A. No.

Q. Export-import business is handled in connection with letters of credit, open account, is that correct?

A. That is right.

Q. What other ways?

A. By draft.

Q. By draft?

A. That is right.

Q. What proportion, if you have it at hand, of your business, is done on letters of credit, sight drafts, and open accounts?

A. I would not know. I have no way of knowing. We get instructions from the shipper, you can trust the shipment to our care, we give him the documents we do not know what the arrangements are in all cases. He would not necessarily have to tell us.

Q. Can you tell us whether or not in your experience, any of the ores you name have moved on letters of credit as against open account?

A. I would not know.

Q. Who are the consignees of the ores?

A. To the interior?

Q. Yes, sir.

A. Chiefly the steel mills, we will say like United States Steel, Republic, Jones and Laughlin, and numerous others.

[fol. 943] Q. Did you ever see a letter of credit with a steel company name on it?

A. They don't handle their financial transactions through us at all. They give us the import or export documents, and we pick it up from there and follow through on it.

Q. Why is the letter of credit used?

A. Well, a letter of credit is used, if you are an exporter from this country, you certainly are not going to send your

merchandise over there on open account. You may be in a shirt business in Bangkok, and it is not good business in being in business with your merchandise over there with no money.

Q. We have ore, coal and steel products. Do you have any other large category of traffic handled by your firm?

A. Well, when you say "large," we do a fairly large business, I would say, as far as the port is concerned. I just say it is so numerous, the commodities, it is really hard to pinpoint, and we do not break them down on tonnages.

Q. What I was trying to get at is the traffic which moves by rail as against that which might move by rail or truck.

Now, going to your so-called package or general cargo freight business, that breaks down, does it not, in to possibly any kind of item?

A. Not any kind, no.

Q. Predominantly what?

A. Well, your truck freight is certain types of freight, [fol. 944] which I think everybody does know is conducive to truck, and the other is not, it has to go by rail.

Q. Yes.

Do you import foodstuffs or handle foodstuffs?

A. We do.

Q. Does it not move out-bound predominantly by truck?

A. I would not say so.

Q. You can't say?

A. No, sir.

Q. How many salesmen do you have on the road soliciting business for your company?

A. Salesmen as such we do not have. We have our own staff, and we make periodic visits throughout the year.

Mr. Moerman: No further questions.

OFFER IN EVIDENCE

Mr. Macleay: I offer exhibit 77, Mr. Examiner.

Exam. Boat: That exhibit will be received as exhibit No. 77 in evidence.

(Exhibit No. 77, Witness Connor in support of Protestants was received in evidence.)

Exam. Boat: You are excused Mr. Connor, thank you.

(Witness excused.)

Mr. Macleay: I call Mr. Mason.

(The witness was not present.)

Exam. Boat: Is Mr. Mason here? (No response.)

Mr. Macleay: I call Mr. Wittkamp.

[fol. 945] NORMAN R. WITTKAMP was sworn as a witness and testified as follows:

Direct examination.

By Mr. Macleay:

Q. Will you please state your name and business connection for the record?

A. Norman R. Wittkamp, president of Island Shipping Co. and Island Forwarding Co., Inc.

Mr. Macleay: I ask that Mr. Wittkamp's verified statement be marked for identification, Mr. Examiner.

Exam. Boat: That may be identified as exhibit 78.

(Exhibit No. 78, Witness Wittkamp in support of Protestants was marked for identification.)

Mr. Macleay: The witness is tendered for cross examination.

Cross examination.

By Mr. Miller:

Q. Mr. Wittkamp, does the Port of Philadelphia, for example, have the same superiority in so far as available services are concerned, as New York does over Baltimore?

A. I am not familiar with the Port of Philadelphia.

Q. Apparently you do not have competition as between Philadelphia and Baltimore ports?

A. As far as export carloading service.

Q. That is right.

A. I know of no export carloading service from Phila-
[fol. 946] delphia to the Middle west.

Q. Would the same be true of Hampton Roads ports?

A. That is right.

Q. What about the ports north of New York?

A. I know nothing about them.

Q. How about Boston?

A. I know of no specialized carloading service from the Middle West for export to Boston.

Q. How about Portland?

A. Likewise.

Q. So that this competition in the carloading is only between Baltimore and New York?

A. On the East Coast, yes, sir—for export.

Q. Export only?

A. Yes, sir.

Q. And you are not concerned with import?

A. No, sir, there are carloading services available for export to Philadelphia, Hampton Roads, and the other ports you mentioned.

However, I do not know of any firms that operate exclusively for export in the same category that we do from the Middle West to Baltimore, but New York does.

Q. Do you feel any competition in your business from them?

A. From New York?

Q. No, from those that export at Philadelphia and Hamp-
[fol. 947] ton Roads?

A. Oh, at times, yes.

Q. Is it rather minor?

A. I would say, yes.

Q. Does the differential rate as between Philadelphia and Baltimore have any effect on that?

A. Philadelphia, not being, as we said before, not being as competitive in our business, I would say it is negative.

Q. And the superior service out of New York is the principal factor, is it, in general, over Baltimore?

A. The superior service and other advantages that they have—storage, and things like that.

Q. And as I understand it, the differential to Baltimore

is the only selling point you have for Baltimore over New York?

A. Yes, sir.

Q. You have no other selling point that you can give your customers?

A. Well, we consider the differential being that the freight rates to Baltimore include delivery to the ship on shipments in less than 5,000 pound category, whereas to New York there is no such thing as free delivery by car-loading companies on shipments less than 5,000 pounds.

So we do offer the free delivery and that would add to the differential.

Q. Is that the only other advantage in addition to the [fol. 948] differential?

A. That we have over New York?

Q. Yes.

A. That is the only advantage I know of.

Q. Can you evaluate that advantage at Baltimore, that is, the advantage in addition to the differential, the loading advantage?

Is there any evaluation of that in cents?

A. I do not follow exactly what you mean, do you mean in rate situations or our service?

Q. In cost considerations, as far as your clients are concerned, or yourself is concerned?

A. We sell the Port of Baltimore on what we say is the economy of the port.

Q. Yes.

A. Where we can deliver the freight to the ship without additional cost to the shipper?

Q. Yes.

A. Or the consignee. And at New York, they do not have that advantage on these small shipments.

Q. I am trying to get an evaluation of this particular loading or delivery advantage of Baltimore over New York.

Can you evalnate that in cents per hundred pounds, or something like that?

A. Generally speaking on shipments of less than 5,000 pounds, the delivery charge at New York is between $4.00 [fol. 949] and $5.00 minimum, with an average of about 45 cents per hundred pounds.

Some carloading companies specify that in their tariff.

Q. Can you give us an approximation of the portion of your business that would involve these shipments of less than 5,000 pounds?

A. I would say 85 per cent, or 90 per cent.

Mr. Miller: Those are all the questions I have, thank you, sir.

Cross examination.

By Mr. Moerman:

Q. On this delivery charge at New York to shipside. Is that charge imposed, Mr. Wittkamp, by the railroads?

A. No, sir, the carloading companies, my competition, offer rates to the port, and on shipments less than 5,000 pounds are additional, the rates on these deliveries are to the port, and the delivery to the ship from the carloading warehouse is the additional charge on shipments of less than 5,000 pounds.

Q. You said the minimum was $4 to $5, speaking slowly, I am having trouble reading. Do you know what the minimum is, the minimum weight?

A. That would be, if the rate is 45 cents per hundred pounds, that would be about a thousand-pound minimum delivery. It would be in that range.

Q. Is your only office in Baltimore?

[fol. 950] A. Operating sales office, no, but destination office, yes, sir.

Q. Explain yourself a little bit. What do you mean by that?

A. Our carloading rights authorized us to handle export less-than carload shipments from the middle west, to Baltimore, only.

Q. You are restricted to Baltimore?

A. Yes, sir.

Q. I am going to inquire as to why you do not do business at other ports, but you have rights from this Commission, have you not?

A. Yes, sir.

Q. Are you free to join in any kind of a joint arrangement so that a New York forwarder could take your carload at any point and route it through New York, via New York?

A. No, sir.

Q. You can't do that?

A. No, sir.

Q. How long have you been in business?

A. Approximately 7 years.

Q. You began in 1951?

A. Yes, sir.

Q. With how many employees?

A. Three.

[fol. 951] Q. How many do you have now?

A. Exclusively on the inland shipping pay roll there are six.

Q. How many in your total business?

A. Oh, approximately 18.

Q. Do you have an operating office at Baltimore, and do you have other offices, where?

A. For Inland Shipping Company at Cincinnati, Ohio, Indianapolis, Indiana, Columbus, Ohio, Cleveland, Ohio, Toledo, Ohio, and Chicago.

Q. Have all these been established in the last 7 years?

A. Yes, sir.

Q. What is the function of the offices you have just named?

A. As a carloading company we assemble l-c-l shipments for export at those cities, and load cars direct to Baltimore.

Q. Do you act as a customs house broker?

A. No, sir.

Q. You are exclusively a carloading company?

A. Inland Shipping Co. is an export carloading service, yes, sir.

Q. Do you specialize in any particular type of freight, for example, for food chains or department stores or five and ten cent stores, for example?

A. Yes, sir, we have a service available for any l-c-l shipments that would come under that export rate.

[fol. 952] Q. Mr. Witness, I have been trying to find out what you have been doing in the past few years. Whether you have been specializing in handling carload shipments

for any particular type of industries like hardware, canned soups, things like that?

A. Are you referring to Inland Shipping Co.?

Q. Yes.

A. Any business we handle is all in less-than-carload traffic. We would never have what you would say in the terminology of carload freight.

Q. Yes, but now I want to find out what kind of less-than-carload traffic?

A. We have had traffic that would be most attractive to us, and that would be the one that would give us the most financial return, which would be in machinery or such finished products as televisions and cameras.

Q. That is what I am getting at, machinery, televisions, cameras, what else?

A. Any category in the l-c-l business. Your first class freight is the most desirable freight you could handle for making money.

Q. Yes. Now, what is it that you handle, or have handled in the recent past?

A. I would say I told you what we solicited. I did not tell you what we got. We get a lot of steel, steel stampings, [fol. 953] something like that.

Q. You get steel?

A. Steel stampings.

Q. Steel stampings. What else, sir?

A. We handle construction equipment.

Q. Construction equipment like what, scaffolds?

A. Road-building equipment.

Q. Road-building equipment? What else?

A. Castings, iron and steel.

Q. Iron and steel castings?

A. Nuts and bolts?

Q. Nuts and bolts.

A. I could name practically have of the items in the consolidated classification that we have handled.

Q. Yes.

Are your activities confined exclusively to the receipt of freight by rail in consolidated carloads for transfer to ship or export so far as your outward bound movement is concerned?

A. Strictly export, that is right.
Q. In rail cars, is that the way you receive it?
A. At Baltimore?
Q. Yes.
A. Yes, sir.
Q. Do you get any by truck?
A. We are not operating via truck.
[fol. 954] Q. All right.
A. —at Baltimore.
Q. I see. Do you operate anywhere else by truck?
A. Well, a freight forwarder normally operates, his normal operation is to consolidate a motor vehicle into a consolidating point, so we bring the merchandise from off-line points into the receiving station at Indianapolis or Chicago, via motor truck, load it in our car at that point and send it to Baltimore.
Q. Do you forward to the interior, important traffic?
A. No, sir, export only.

Mr. Moerman: That is all.
Exam. Boat: No further questions?

OFFERS IN EVIDENCE

Mr. Macleay: I offer exhibit 78.
Exam. Boat: You are excused, Mr. Wittkamp, and exhibit 78 is received.

(Exhibit No. 78, Witness Wittkamp, in support of Protestants is received in evidence.)

(Witness excused.)

Mr. Macleay: Mr. Examiner, I ask that there be marked for identification verified statement of Mr. A. B. Summers, Traffic Manager of the Ever-Ready Company of Maryland.
Exam. Boat: It will be identified as 79.

[fol. 955] (Exhibit 79, Witness Summers was marked for identification in support of Protestants.)

Mr. Macleay: Mr. Summers was not called for cross-examination, so I offer exhibit 79.

Exam. Boat: That may be received in evidence as Identified.

(Exhibit 79, Witness Summers in support of Protestants was received in evidence.)

Mr. Macleay: I ask there be marked for identification the verified statement of Victor F. Stine, president of the Pangborn Corporation, Hagerstown, Maryland.

Exam. Boat: That will be identified as exhibit 80.

(Exhibit 80, Witness Stine, in support of Protestants was received in evidence.)

Mr. Macleay: I offer it in evidence.

Exam. Boat: It is received in evidence.

Mr. Macleay: I ask there be marked for identification the verified statement of J. V. Jamison, 3rd, president, Jamison Cold Storage Door Company, Hagerstown, Maryland.

Exam. Boat: It will be identified as exhibit 81.

(Exhibit 81, Witness Jamison in support of Protestants was marked for identification.)

Mr. Macleay: Mr. Jamison was not called for cross-examination so I offer exhibit 81 in evidence.

Exam. Boat: It will be received in evidence.

[fol. 956] (Exhibit No. 81 witness Jamison was received in evidence.)

Mr. Macleay: I ask there be marked for identification the verified statement of Mr. Robert M. Pilson, Traffic Manager, Anchor Cost Products, Inc., Baltimore, Md.

Exam. Boat: It will be identified as exhibit 82.

(Exhibit 82 Witness Pilson was marked for identification in support of Protestants.)

Mr. Macleay: Mr. Pilson was not called for cross examination so I offer exhibit 82.

Exam. Boat: Exhibit 82 is received in evidence.

(Exhibit 82 is received in evidence.)

Mr. Macleay: I ask there be marked for identification the verified statement of Mr. C. Gilbert Kappel, National Plastic Products Co. of Odenton, Md.

Exam. Boat: That will be marked as exhibit 83.

(Exhibit 83, Witness Kappel, in support of Protestants was marked for identification.)

Mr. Macleay: Mr. Kappel was originally asked to appear for cross-examination but counsel for the respondents and their supporters advise me they do not desire to cross-examine him, so I offer exhibit 83.

Exam. Boat: Received in evidence.

(Exhibit 83, Witness Kappel, in support of Protestants was marked for identification.)

[fol. 957] Mr. Macleay: I call Mr. Seidl.

E. Arch Seidl was called as a witness and being duly sworn, testified as follows:

Direct examination.

By Mr. Macleay:

Q. Will you please state your name and address for the record?

A. E. R. Seidl, 5401 Purlington Way, Baltimore, Md.

Mr. Macleay: I ask Mr. Seidl's verified statement previously distributed be marked for identification as exhibit No. 84.

Exam. Boat: It may be marked.

(Exhibit 84, Witness Seidl in support of Protestants was marked for identification.)

Cross examination.

By Mr. Miller:

Q. Mr. Seidl, do you recall approximately when the ship owners began quoting approximately the same rates as between—to or from all of the North Atlantic Ports?

A. The ship owners?

Q. Yes.

A. My recollection is that about 1920 or 1921, along in there. Right after World War I.

Q. A little after—you mean they started quoting the same rates to and from the North Atlantic Ports right [fol. 958] after World War I?

A. I did not get your question. Did you say when did they start it?

Q. Yes.

A. I do not know when they started it. I know when certain interests in New York tried to get an equalization of rates, and that was in 1920-21, I happened to be in one of the conferences up there where the effort was attempted.

Q. We are talking about shippers.

A. Shipper—ocean rates?

Q. Yes.

Did the equalization of the ship rates then come after that time?

A. It was in effect at that time. I recall clearly because it was in the meeting in the spring of 1920 or 1951, that one of the New York companies requested the conference to create a differential on the ocean at North Atlantic Ports. And we voted it down. When I say "we," I mean the conference.

Q. On page 3 you describe your time and efforts in soliciting traffic to and from the Port of Baltimore from 1919 to 1932.

Do I understand from that that you discontinued soliciting traffic after 1932?

A. Well, we went out of business in 1932.

[fol. 959] Q. I see.

A. In that particular venture.

Q. Have you done any solicitations since then?

A. Well, from 1943 up to 1955, yes, because I was managing the office and I was interested in getting freight but I was not out on the road.

Q. 1943, to 1955, did I get that right?

A. Yes.

Q. Now then you mention Dichmann.

Q. Dichmann, Wright & Pugh, on page 5 of your statement. Would you tell me, from your description of their difficulties in operating out of Baltimore that the rail freight differential was not an adequate attraction to put them in business—to keep them in business?

A. No.

Q. How much did it have to do with it?

A. There is no statement in here to that effect.

Q. Did the rail freight differential have anything to do with them abandoning that enterprise?

A. Do you mean that particular venture which we started called the Fjell Line?

Q. Yes.

A. Put your question again.

Q. Did the difficulties—in competing with New York have [fol. 960] anything to do with the abandonment of that enterprise?

A. The difficulties with competing with New York?

Q. Yes.

A. Yes.

Q. The differential was not adequate to overcome that difficulty of competing with New York, is that right?

A. I do not know how much differential had to do with it, but we found out that the New York group had the control of the business, and we could not draw any away from their own commitments.

Q. Despite the fact you had the differential?

A. That is right.

Q. Now, do the ports north of New York have that same competitive advantage over Baltimore as New York has?

A. I do not follow your question.

Q. Does Boston have the same competitive advantages over Baltimore as New York have over Baltimore?

A. No.

Q. How about Portland?

A. No.

Q. Albany?

A. In some cases.

Q. Grain?

A. Grain.

Q. Is that mostly where the—how about the competitive [fol. 961] advantages between Philadelphia and Baltimore?

A. Well, now, with respect to what, the differential?

Q. No, as to the other competitive advantages—service advantages.

Does Philadelphia have any advantages over Baltimore?

A. No.

Q. How about Hampton Roads?

A. Well, on certain freights, yes.

Q. Mostly—

A. Tobacco, lumber and stuff like that, comes right from their own back yard.

Q. But it is differential territory, the CFA territory—

A. They get a fair share of it.

Q. To differential territory, does Hampton Roads have any competitive advantages over Baltimore?

A. None that I know of.

Mr. Miller: Those are all the questions I have. Thank you, sir.

OFFER IN EVIDENCE

Mr. Macleay: I offer exhibit 84.

Exam. Boat: It is received in evidence.

(Exhibit No. 84, Witness Seidl in support of Protestants is received in evidence.)

Exam. Boat: The witness is excused.

(Witness excused.)

Exam. Boat: Mr. Macleay, I think you had a matter [fol. 962] which was to be discussed with Mr. Miller as to his agreeableness—

Mr. Macleay: I announced earlier, Mr. Examiner, Mr. Stanton who was here Friday is not able to get on the stand then and on Sunday was injured and is incapacitated and will not be able to be here this week. I suggest perhaps the best solution would be for us to agree that he appear at the March 25th hearing.

Mr. Miller: That is all right with me. I do not care.

Exam. Boat: Very well.

Off the record.

(Discussion was off the record.)

Exam. Boat: On the record.
We will recess until 2 o'clock.

(At 12:32 p.m. the hearing was recessed until 2 p.m.)

[fol. 963] AFTERNOON SESSION.

2 p.m.

Exam. Boat: Come to order, please, genetlemen.
Mr. Macleay: Mr. Childe.

C. E. CHILDE a witness was sworn and testified as follows:

Direct examination.

By Mr. Macleay:

Q. Will you please state your name and address for the record, Mr. Childe?.

A. C. E. Childe, address Cambridge, Maryland.

Mr. Macleay: May Mr. Childe's verified statement, together with the exhibits attached thereto, be marked for identification, Mr. Examiner?.

Exam. Boat: That will be identified as Exhibit 85.

(Exhibit 85, witness Childe, in support of Protestants was marked for identification.)

By Mr. Macleay:

Q. Mr. Childe, were there some corrections made in your testimony and exhibits of which the parties were advised by a letter dated November 18, 1957?

A. There were some corrections, yes, sir.

Q. Will you indicate what those were, just so the record may be absolutely clear?

I believe the first is on page 8 of your statement.

A. On page 8, the 7th line over toward the right where it says "population tripled", it should read "Population increased 6-fold."

[fol. 964] Q. I believe the next is on page 20.

A. On the 14th line of page 20, on the righthand, where it says "Sandusky-Portsmouth Line", it should be "Sandusky-Marietta Line."

Q. Should a similar correction be made on Chart C-7?

A. Yes, sir.

Q. Are there similar corrections you wish to make in your exhibit, particularly exhibit X-19?

A. In reading this testimony over before coming to Washington this time I found another error. A few figures are wrong which, if it is appropriate, I would like to correct.

Q. I wish you would.

A. On Exhibit X-19—

Mr. Macleay: May we go off the record a moment, Mr. Examiner, before we proceed?

Exam. Boat: All right.

(Discussion was off the record.)

Exam. Boat: On the record.

By Mr. Macleay:

Q. Now, will you proceed, Mr. Childe, please, sir?

A. On Exhibit X-19 I found that the unit values as stated on the exhibit were those for exports, and they are correctly stated for exports, but these unit values were also used for imports whereas there was another set of unit values for imports stated on exhibit X-17, therefore, in [fol. 965] order to make the import unit figures correct, I would like to have in the two columns headed "Unit Value" a figure for exports, just put the word "Exp." above the figures on the exhibit as they are now, in both the "1923-1925 = 100" column and in the "1913 = 100" column. But then add to the right of each of those exports a column headed "Imp." for import.

Exam. Boat: To the right of the export figures?

The Witness: Yes, sir.

Exam. Boat: I understand.

The Witness: Those figures for imports are as follows for the 1923-1925=100.

1913, 70, 1921-25, 94, 1926-30, 90, 1931-35, 48; 1936-40, 56.
1941-1945, 77.
1946-50, 122.
1951-55, 161.

Those unit values, by the way, will be found also on exhibit X-17 under imports.

Exam. Boat: Off the record.

(Discussion off the record.)

Exam. Boat: On the record.

The Witness: Starting out with 100 for 1913, the figures would be as follows:

For imports—134, 129, 69, 80, 110, 174, 230. That will change the 1913 basis for imports in the last two columns [fol. 966] at the right as follows:

Starting first with the New York and working down—

Exam. Boat: Beginning with 1921-25?

The Witness: Yes, sir.

The 1913 figures will not be changed.

Starting 1921-25, New York will be 1250.6. 1,525.5; 1,256.2; 1,512.8; 1,161.8; 1,523.4, 1,771.8.

Baltimore, starting 1921-25.

58.0; 84.6; 80.1, 99.5; 85.4, 129.5, 174.5.

Now, those changes in the 1913 basis would also change slightly the trendline on exhibit C-4.

I do not think it worthwhile to point out exactly where it would come on the chart because the figures themselves will give that information.

The change, however, in the trend, will be so small as to be insignificant.

The effect will be, however, to change the text at the bottom of page 14 of my statement, the last two lines, where it says, "Imports reached 1.9 billion."

Now that will be changed to 1.8 billion.

And on the line below "Baltimore is advanced to only 174 million," instead of 232 million.

That is right.

Exam. Boat: That is 174?

I do not know for those of you who are correcting your [fol. 967] exhibits, I do not know if you indicated in that

second column under "Unit Value, Imports," that he had a base of 100, the same as in the first column.

The Witness: Yes, sir, that is correct.

Exam. Boat: You should have read that.

The Witness: Those are all the corrections I have, Mr. Macleay.

By Mr. Macleay:

Q. One other matter, Mr. Childe.

In connection with the Maritime Administration tabulation of sailings which was described by Mr. Hamill in connection with his exhibit 1, did you have conversation with the Maritime Administration and other government officials with reference to that tabulation?

A. You mean with reference to what is general cargo and what is bulk?

Q. I mean that particularly, yes, sir.

A. I have discussed that with representatives of both the Maritime Administration and the Bureau of Customs.

Q. Are you in a position to tell us how they determined—what is the machinery of determining whether a vessel shall be shown in that tabulation as a general-cargo vessel or a bulk vessel or an MSTS vessel, or as having come in or gone out in ballast?

Mr. Moerman: Objection as hearsay.

Mr. Foley: No qualification of the witness has been [fol. 968] shown, Mr. Examiner. I object.

Mr. Macleay: Mr. Examiner, there was some question raised about it.

Here is a man—all right, let me qualify him.

By Mr. Macleay:

Q. Were you the person, Mr. Childe, who obtained from the Maritime Administration that tabulation upon which Mr. Hamill's exhibit was based?

Mr. Moerman: Objection—leading.

Mr. Macleay: Oh, let us not be silly, counsel.

Mr. Moerman: Mr. Examiner, may that be stricken from the record? The objection is perfectly proper.

Mr. Macleay: I think it ought to stay there.

Exam. Boat: The objection is overruled, Mr. Childe. You may answer.

The Witness: I obtained the data from the Maritime Administration from which Mr. Hamill's exhibit was prepared.

By Mr. Macleay:

Q. Did you, also participate in the conferences which had to do with the examination of that material and the setting up of the forms to be followed and the standards to be applied in the preparation of Mr. Hamill's exhibit?

A. Yes, sir.

Q. Now, during the course of all of this, did you come to learn how, or distinguish between bulk vessels and general cargo vessels, so far as that tabulation is concerned?

Mr. Foley: To that I object. How can he testify how. [fol. 969] Does it mean he was told by somebody?

Mr. Macleay: Mr. Examiner, I submit when one is conducting a study of that kind he must rely in large part upon what he is told.

Mr. Foley: I think we ought to know what he is told and who told him and what they know about it, Mr. Examiner?

By Mr. Macleay:

Q. Who did you discuss that particular question with within government circles having to do with the preparation of those figures?

A. I discussed it with a number of individuals in the Maritime Administration, among them Mr. William B. Harmon who is the Chief of the Statistical Branch that prepares those tabulations;

Mr. Heine, who is the head of the Bureau of Statistics and Economics down there.

Q. He is Mr. Harmon's superior?

A. No, they are co-equals, I believe. They are both heads of their respective divisions, and quite a number of others. I do not know that I can remember all of them, but about everybody around the place that had anything to

do with those statistics, I guess. And I also talked with officials in the Bureau of Customs and in the Bureau of the Census, all of whom have something to do with compiling those figures.

Q. Do you know where the Maritime Administration obtains the basic data upon which or from which it compiles such figures?

[fol. 970] A. I know what I was told about it by these officials. I have not personally prepared any of the figures.

Q. Where did they tell you they obtained the figures?

Mr. Moerman: Mr. Examiner, may I interrupt to ask what is the purpose of the current examination?

Mr. Macleay: It is purely for the purpose of inquiring of an informed witness in order to elicit answers which you were unable to get from Mr. Hamill because he was not informed on the subject.

If you do not want the answers to the questions, I will drop the line of questioning right now and the witness is tendered for cross-examination.

Mr. Moerman: It suits me fine, let us go ahead.

Mr. Macleay: Let the record be perfectly clear we tried to furnish it in the best form possible.

Mr. Foley: Mr. Examiner, that is a highly improper remark. It obviously isn't the best possible information.

Mr. Macleay: Best obtainable on short notice.

Mr. Foley: He has plenty of time.

Mr. Macleay: I have withdrawn the line of questioning. The witness is tendered for cross-examination.

Mr. Miller: Shall I go ahead, Mr. Examiner?

Exam. Boat: Yes.

Cross examination.

By Mr. Miller:

Q. Let us start with your exhibit X-19 that you have [fol. 971] given some revisions for.

Would you tell me how you adjusted these export-import figures to reflect the 1913 dollar basis?

A. On the basis of the unit values stated at the left. These unit values are in turn obtained from the Department

of Commerce statistical abstract as reproduced on exhibit X-17.

Q. Point out to me the column on the exhibit X-17 that corresponds to the column on X-19?

A. The upper lefthand corner, the first column is "Yearly Average."

The next column is "Quantity," and the next column is "Unit Value."

It is that last one, unit value, that is the same on X-17 and also on X-19.

Q. You have figures on X-17 and not on X-19, don't you?

A. Yes.

Q. Point out to me which columns you picked out for your unit value for X-19?

A. I just gave you the column. The column headed "Unit Value," on X-17, under "Exports" is the third column of figures you see from the left in the upper lefthand.

For "Imports" you find the same thing stated in the middle section, the right half, under the word "Imports." There you will find three columns under a sub-head "Total" and the middle of those 3 columns has at the top heading {fol. 972} "Unit Value." That is the one I used.

Q. Now, you have got a 5-year average in X-19 that does not appear on X-17. Where did that come from? Oh, yes, I see.

A. Yes, it does, if you look at the left side of X-17, do you see those figures?

Q. Yes.

All right, then, as I understand it, X-19 includes all exports and imports, including the bulk cargo as well as the general cargo, is that right?

A. Yes.

Q. Now then, as between Baltimore and New York, the consist of that traffic would be different, would it not?

A. Yes.

Q. It would be different over the years, would it not? That is, there would be a variance in the percentages of each particular commodity in that consist; is that right?

A. There is some change every year. They also follow general patterns which do not change very much from year to year.

Q. Well, there would be some ups and downs, depending upon the business conditions in a particular commodity, isn't that right?

A. Yes, the detail of all that is in some exhibits which I believe Mr. Seal has introduced, the army engineer figures.

Q. Well, now, did you, in preparation of exhibit X-19, [fol. 973] adjust those current dollar figures to a 1913 dollar-figure basis for each commodity separately?

A. No. The Department of Commerce does all that in working out these unit values.

Q. What do you mean by that?

A. They take the entire amount of exports and imports, commodity by commodity, and they attach to each of them a weight based upon the difference in values from year to year and they consolidate all that into a combined unit value which appears in my exhibit.

Q. Yes, but to apply that unit value to a particular port necessarily results in the assumption, does it not, that the particular port has the average consist of traffic of all ports, does it not?

A. It does to a certain degree.

Q. To a certain degree? It does completely, does it not?

A. Well, it does to a certain degree, to this extent: That there are variations from year to year, but they do not change the total pattern very much from year to year.

Q. When you use a United States average and apply the same figure to New York as you apply to Baltimore, you necessarily assume, do you not, that the same consist of traffic existed at Baltimore as existed at New York, right, for that particular year?

A. You necessarily assume what you are doing is apply- [fol. 974] ing a national average to a particular port business, which may throw it off a little and undoubtedly does, but I am trying to explain to you in applying those figures to the two ports—

Mr. Miller: Mr. Examiner, may I have an answer to my question, please?

Exam. Boat: He is trying to explain it.

Mr. Miller: I know, but he ought to answer it first.

Mr. Macleay: I submit, Mr. Examiner, he is answering it, if counsel will give him a chance.

Exam. Boat: I do not recall what he said when he started to reply there. Will you read the reply?

(The record was read by the reporter.)

Mr. Miller: That can be answered yes or no.

The Witness: I am lost now; if you will start over again, I will try to answer your question.

Mr. Miller: Will you read the question again?

(The question was reread by the reporter.)

The Witness: No.

By Mr. Miller:

Q. Why?

A. I do not have to make that assumption.

Q. Why don't you have to make that assumption?

A. It would not make any sense to me to make such an assumption. I think what you are trying to say is that the national average would not be exactly the same as the average of either New York or Baltimore, and I agree that is [fol. 975] true, but if you mean by that that these figures are improper for the sake of making comparisons of the two ports, I would not agree with you on that.

Q. Well, when you use this national average, you are assuming to blow up dollar figures. You assume, do you not, the same consist of traffic at every port in the United States, isn't that true?

A. No, sir. If you wish to have me explain what I was trying to tell you, I will be glad to do it.

Q. All right, go ahead.

A. If you will refer to my exhibits, starting with X 18 showing the value of exports and imports of merchandise to New York and Baltimore—

Exam. Boat: Those are aggregate values?

The Witness: Yes, sir, showing values annually of exports and imports at each of those ports.

I come out with a chart which is chart C-3 for exports and C-4 for imports.

Now the heavy black lines on charts C-3 and C-4 show the volume of traffic and the trends of the traffic from year to year in your current dollars from 1870 to 1955 or 6.

Now in addition to that, I thought it would be of some value to show what the trend would be in constant dollars so that you take out the inflation of the war and post-war years.

[fol. 976] In order to show those same trends in constant dollars I had to have a conversion figure to convert the later dollars into 1913 dollars.

By Mr. Miller:

Q. All you converted was the dollars and not the commodities, isn't that right?

A. The dollar values. Now the part—

Q. But you did not convert the commodities that way?

A. No, I am dealing with dollars here exclusively.

Q. Did they ship dollars?

Mr. Macleay: Oh, Mr. Examiner, I object to that sort of facetious question.

The Witness: You know of course that dollars are what are used to pay for exports and imports.

By Mr. Miller:

Q. Well now, wouldn't it have been more statistically sound to have taken coal for example, separately and changed the value of those coal shipments to reflect the differences in the changes of the value for coal alone?

A. Well, it is conceivable you can take each commodity and make a conversion separately and then finally come out with an average. If you did all that, you would not be substantially different from what is shown here. You would be wasting a lot of time on what amounts to an insignificant matter.

Exam. Boat: Isn't it so, Mr. Childe, you are merely trying to adjust that for the changes in the dollar value for the [fol. 977] aggregate value in both instances?

The Witness: That is correct, Mr. Examiner, and while it is true, as counsel seems to be bringing out here that

the national average unit may not exactly represent the change in values at a particular port, it comes close enough so that the validity of the trend would not be affected by any slight differences in the consist of the traffic, one port versus another.

By Mr. Miller:

Q. Well, Mr. Childe, let us take your figures on page X-117.

You have there the exports broken down into three broad classes. One you have "Crude Materials." That would include the coal, would it not?

A. Yes.

Q. Well, now, coal in 1913 had a unit value of 47, did it not?

A. Yes.

Q. And 124 in 1951-55?

A. That is right.

Q. Which would be roughly 3 times, right?

A. Yes.

Q. Whereas your figures in total began with 65 and ended with 137, which is just a little over 2 times, right?

A. That is right.

Q. So that your differences in consist of traffic there [fol. 978] would have resulted, if you had computed your coal separately, in multiplying that by 3 times instead of 2 times, wouldn't it?

A. Well, if we took coal separately it would show a different trend than the total, yes.

Q. All right.

Now, let's turn—

A. Of course, you understand that crude materials include other things besides coal.

Q. I appreciate that. You do not have a figure for coal, do you?

A. No.

Q. I am using the best figure you have got.

Let us turn to your exhibit X-22, which shows your exports in total tonnages—all commodities.

Now in all commodities, your line A for Hampton Roads

is far and beyond more than the exports of any other port, is not that right?

A. Yes.

Q. If you were to multiply—most of that is coal, is it not?

A. That is right.

Q. If you had multiplied that by 3 instead of 2, you would greatly have changed your figure in exhibit X-19, wouldn't you?

A. You don't multiply tons by unit figure to get dollars, you multiply dollars. If you take the value of coal, you [fol. 979] would not find Hampton Roads showed up very large. We do have value figures in the record.

Mr. Macleay: By that you mean the figures on your exhibit X-18?

The Witness: I do not show Hampton Roads.

Mr. Macleay: That is right, you only show New York and Baltimore.

The Witness: If I am correct, it was Mr. Seal's exhibit, the Army Engineer's figures show values as well as tons.

By Mr. Miller:

Q. Let's take Baltimore on Exhibit X-22.

In total tonnage they had in 1955 more export tonnage than New York, didn't they?

A. You refer to column "B" figures, or the column "A" figures.

Q. Column "A" figures?

A. Baltimore had more tonnage than New York, yes, sir.

Q. A large part of that was coal, in other words, more coal than New York had?

A. That is right.

Q. So, if you would multiply the Baltimore coal factor by 3, instead of 2 as you did, that would increase the dollar figure for the coal portion of your dollar figure in exhibit X-19, would it not?

A. If you used the value of coal you could multiply it and get a dollar figure, but you could not use tonnage. You [fol. 980] are referring to tonnage all the time.

Q. Where is the dollar figure for this tonnage?.

A. I do not show it, but these other exhibits do show what the dollar value of coal is versus these other things.

Mr. Macleay: You show it in total, don't you, Mr. Childe?

The Witness: Yes. I am not dealing with separate commodities in this exhibit.

By Mr. Miller:

Q. But statistically it would be more sound for you to have inflated each of these commodities separately, right?

A. That would have been a refinement that would change the figures a little, but not much. I do not know whether you want to call that more sound or not. I think it would be a waste of time.

Q. On page 17 of your prepared testimony, about two-thirds of the way down the page you say, "Reference to the individual commodity and accompanying data in the work sheets discloses Baltimore's relatively high percentage to the areas named above were caused by large shipments of iron and steel products and fertilizers produced in Baltimore's local or adjacent territory, rather than by tonnage diverted by Baltimore from the differential territory away from New York."

Is that not a statement as to the consist of the traffic involved in your figures also applicable to exhibit X-19? [fol. 981] Isn't a large portion of the exports and imports there not a matter of differential territory, but shipments to and from local and adjacent territory?

A. Yes, that is correct.

Q. And the only figures that you show all through your exhibits and testimony relating to the differential territory is one set of exhibits that you obtained from one of the other witnesses in this case, is that right?

A. I do not think I know what you refer to.

Q. Well, give me just a second here and I will find the exhibit.

You have one exhibit, do you not, that classifies traffic to and from the differential territory, isn't that right?

A. I have an exhibit in which I endeavored to put together the tonnage figures of the northern railroads, that is,

the railroads proposing to make these equalizations, and the opposing railroads.

Q. Can you designate the number of that exhibit?

A. It is X-24.

Q. That is the only exhibit, the only data that you have in your exhibits and testimony relating particularly to movements to and from the differential territory, right?

A. No, I have some exhibits in which I endeavor to show the growth of manufacturing in the differential territory as distinguished from the so-called hinterland territory.

[fol. 982] Q. But that growth of manufacture is not related to the export-import solely, is it?

A. No.

Q. It would include the manufacture of commodities consumed locally, would it not?

A. The figures I used dealt with the total manufacturing in the various areas which I thought would be indicative also of their export-import potential.

Q. But the figures included amounts consumed locally?

A. It included all manufacturing.

Q. Including the amounts consumed locally?

A. Yes. It has nothing to do with consumption. It is everything manufactured.

Q. Now, in turning to page 3 of your testimony, you say there, "My testimony will deal with the changes in population, occupational patterns, and the growth of manufacturing in exports and imports during the period."

Now there have been changed in, as you show, all of these areas, has there not?

A. Yes.

Q. And the issues involved in this case, namely, the export-import differential would be only one of numerous economic influences affecting each of those changes, would they not?

A. That is correct.

Q. And it would be an infinitesimal factor economically, [fol. 983] would it not?

A. No, I do not think so.

Q. How can you tell?

A. Well, I have a general background of information

that the differential has had a good deal to do with the movement of traffic through these various ports.

Now, if you refer to whether the differential has been a big factor in the development of manufacturing in the area, I would have no information to indicate that manufacture grew up because there was a differential, I would not want to make that contention. But the freight rate and the freight rate relationships still have a distinct influence on manufacturing and on traffic.

One cannot make a broad, generalization that the differentials had an infinitesimal effect, that would be going too far.

Q. Can you say it has a measurable effect?

A. Yes, it could be measured, but I do not have the data with which to put any precise measurement on it.

Q. You did not attempt to measure it, did you?

A. I measured it as best I could in trying to show what has been the development here, and I had hoped that that would throw some light on the movement of traffic.

Q. What has the freight differential got to do with occupational patterns?

[fol. 984] A. The differential indicates whether or not a freight rate will be so many dollars and cents from a certain point to another one, and I know of general knowledge that is one of the factors that enters into the location and growth of manufacturing, but just how much and in how many cases I would not have any way of guessing.

Q. The same would be true as to changes in population, is that your contention?

A. I know the changes in population are related to changes in industrial growth, so the whole thing is tied up together in a pattern. All I can do is try to show you the pattern.

Q. On page 13 and extending on to page 15 you are talking there, are you not, about the figures that you set forth in exhibit X-19?

A. I start to talk about exhibit X-19, on page 12.

Q. Yes.

A. And continue talking about exhibit X-19 and some charts, and so forth, all related to the same phase of my testimony up to the middle of, or down to the middle of page 15.

Q. And so the corrections and testimony that you have given about exhibit X-19 would have to be applied to those pages, would it not?

A. I changed all of the figures that require any change, I think.

Q. Let me check.

[fol. 985] A. I do not know of any I overlooked.

Q. I have your revised testimony, and I do not see any changes in the figures in the text.

Mr. Macleay: He read them into the record a moment ago, counsel, on page 14.

Mr. Miller: I am sorry.

Mr. Macleay: The last two lines.

By Mr. Miller:

Q. Wouldn't you have to make more changes than that through the testimony beginning on page 12?

A. I think not.

Exam. Boat: Mr. Childe, in that connection, you refer to the same 232 million in the first line on sheet 14 as you do in the last line, but you changed only the last line.

Mr. Macleay: Apparently that is correct. The first line on page 14, Mr. Childe, is that the same 232 million?

The Witness: I believe you are right, Mr. Examiner, thank you. I overlooked that one.

Exam. Boat: The one on the first line should be changed to 174 million also, is that correct?

The Witness: Let me read that to make sure, may I?

Exam. Boat: Yes, surely.

The Witness: The figure at the bottom of page 13 refers to exports and at the top of page 14 it refers to exports. I did not change any export figures, it was only the import figures that were changed.

[fol. 986] Exam. Boat: I see.

Then there should be no change in that first line?

The Witness: No change in the exports, no, sir.

It happens, Mr. Examiner, if you will look at X-19, Baltimore had 232 million exports and 232 million imports. I did not change the export, but I did change the imports.

Exam. Boat: It is a rather unusual coincidence?
The Witness: Yes, that is correct.

Cross examination.

By Mr. Moerman:

Q. Mr. Childe, why is the proposal of the New Haven, the Boston and Maine, the New York Central and other respondents in this case not in the public interest in your opinion?

A. I think it would give them such a preponderance of advantage over the ports below New York that the public interest would suffer rather than be benefited. It would be too lopsided an arrangement. That is one thing.

Above that, I think the public is interested in getting the lowest possible reasonable rates on exports and imports, and in my opinion if the rates were equalized, the equalized rate would have to be higher than if the rates were based on the transportation costs and conditions of each port separately, so that, if you keep a lower rate in effect to and from the ports where transportation costs would justify a lower rate, the public can take advantage of that lower [fol. 987] rate whenever there is an advantage in so doing.

If you equalize, that would mean that the equalization would have to be on a higher level than would be reasonable at the low-cost port, and at a lower level than would be reasonable at the high-cost port.

Q. You use the word "lopsided," I believe. Is it your statement that if the New Haven Railroad is permitted to equalize with the Hampton Roads carriers, that the New Haven would have a lopsided advantage over the Chesapeake and Ohio Railroad?

A. I would not want to pin it down to those two railroads.

What I mean to say is that the Port of New York would be so overwhelmingly superior to the other ports that the other ports would suffer. That is one phase of it. The other is that since the costs are so much higher through New York than the ports below New York, the public would have to pay a higher freight bill for using that port without being able to use the lower ports at a lower rate.

Q. Is there any cost data in your exhibits or testimony?

A. No.

Q. Now, with respect to the railroads I have mentioned, would you consider it—

Mr. Macleay: Just a moment, Mr. Examiner, I wonder if counsel will inform us whether they are the ones he most recently mentioned, or the ones he mentioned first, in which [fol. 988] he included the New York Central and the Erie?

Mr. Moerman: I will name the railroads.

With respect to the New York Central Railroad, which is a respondent in this case, Mr. Childe, and the Baltimore & Ohio, which is a protestant, is it your opinion that it would be not in conformity with the public interest for the Commission to authorize equalized rates to and from differential territory for the two railroads I have named?

A. Well, if the Commission authorized a reduction in the rate of the New York Central to the Port of New York and left it open to the Baltimore and Ohio Railroad to make a lower rate than that reduced rate, it might not work out to the public advantage, but I think it would be disadvantageous to the public to have the hands of the B & O tied so that it could not make the lower rate to Baltimore than whatever the New York Central put into New York.

By Mr. Moerman:

Q. When you state, as you do, at page 28 of your testimony, that in your opinion the maintenance of lower rates to and from differential territory through Baltimore, Philadelphia and Norfolk, than through New York, would be in conformity with the public interest, are you referring to the broad public interest or to the railroads or to the ports or to shippers or to what?

Who is the public interest in this particular case?

A. I am thinking in the broadest possible terms. I think [fol. 989] it is highly important to the economy of this country that exports and imports be made as economically and as easily as possible, and it is that broad interest I have primarily in mind.

Q. Is it in the public interest, in your opinion, Mr. Childe,

as shown by your exhibit X-24, for 2,375,000 tons of agricultural products to move through Baltimore and 300,000 tons via New York?

A. I think it is under present conditions. It is much more economical to move the grain through Baltimore than it is through New York, therefore, the public gets the benefit of the more economical route by using Baltimore.

Q. Yes, I agree with you that it is in the public interest so far as the shippers are concerned, they do benefit, don't they, by the lower rates through Baltimore?

A. Not only the shipper, but the producer as well.

Q. The producer as well?

A. Yes, sir.

Q. And even the purchaser?

A. That is quite possible.

Q. Who obtains a lower freight rate.

Now, what is the public interest so far as the carriers at Baltimore are concerned, versus the carriers at New York and Boston on this heavy movement?

A. Do you mean what is the carrier's interest in routing [fol. 990] it one way versus the other?

Q. No, what is their interest so far as the public interest is concerned?

Don't you concede that so far as the broad public interest is concerned the railroads at New York and Boston are not getting very much out of this flow of traffic, are they?

A. Well, as to grain, of course they are not getting as much.

Q. Is it because of the differential, Mr. Childe?

A. I think there is a lot more than that to it.

You take New York, for example, does have the cheapest route for moving grain from the West to the Atlantic Seaboard.

Q. The cheapest rail rate?

A. Not the cheapest rail rate, I saw the cheapest routes.

Q. Oh, you mean costwise?

A. I am referring to the water route.

Q. Oh, the water route?

A. Yes.

Now, if it was only a matter of the lowest transportation

cost, that water route would attract more grain through New York, in my opinion, by a great deal, than it does now, but there are other difficulties that New York has to overcome; as you well know, they do not have the elevator facilities, they have a very high-cost operation there in getting the grain on to the ocean vessels.

[fol. 991] Q. Isn't it your opinion that even if the rates on grain were equalized as the respondents here propose, the New York railroads would still have considerable handicaps to overcome to attract grain traffic for export?

A. Yes, until better facilities were provided, I do not think New York would get much grain.

Q. And isn't the same fact true with respect to the ores that you show on your exhibit X-24, that the New York Respondent Railroads would be in a similar position until more adequate facilities are established?

A. Facilities have a great deal to do with it, yes.

Q. On your exhibit X-24, when you say commodity-mines, excluding coal and iron ore, do I take it that there are no exports or imports of coal to and from official territory?

A. To and from official territory?

Q. Excuse me, CFA.

A. I don't know of any coal moving from CFA territory, unless you would call Southern West Virginia, or even northern West Virginia, CFA. Some coal moves from there through the Port of Norfolk, and a little through Baltimore.

Q. What did you exclude on iron ore?

A. I don't believe I understand you.

Q. You have an exclusion here, commodity-mines, iron ore. What was the exclusion, how much in tons?

A. What page are you looking at?

Q. X-24.

[fol. 992] Exam. Boat: From the products of mines you have excluded coal and iron ore?

The Witness: I was merely taking in X-24 the figures that were furnished by the railroads, and whatever they excluded necessarily I excluded.

By Mr. Moerman:

Q. All right, sir, I understand what you did.

I was interested in knowing what the exclusion amounted to if you had it. If you do not have it, that is all right.

A. I am merely copying the railroad figures here and consolidating them.

Q. Yes, sir.

Now, Mr. Childe, early in your statement, specifically on page 5, you make the point that the Port of New York is the largest port, the largest city, the largest center of manufacturing and trade, and I would like to ask you whether or not the New York respondent railroads are the largest carriers of export and import traffic which is the subject of the rates in this case, to and from CFA Territory?

A. I have not made that computation but, of course the figures are in the record. I just do not have them in my mind, whether the so-called New York railroads are ahead of the others or not, but where would you put the Pennsylvania, would that be a New York carrier?

[fol. 993] Q. Not in this case, sir.

A. Would the B & O be one?

Q. Not in this case.

A. Of course they both carry freight to New York.

Q. Turn back to your X-24 for me, will you?

A. Yes.

Q. Now, Mr. Childe, you took these from witness Mollman's exhibit.

Please look at the total under "Export, Baltimore, total 3,303,499 tons; New York, 2,393,045 tons."

And then on the "Imports, Baltimore, 1,644,844 tons; New York, 645,792 tons."

Are you aware that these figures show the amount of export and import traffic to and from CFA territory on the one hand via New York, by the Respondents in this case, excluding the Pennsylvania and the Baltimore and Ohio?

A. I do not remember offhand whether the figures you are reading are merely those of the B. & O and Pennsylvania, or whether they are all of them, but the record shows.

If you will tell me what they are, I will be able to understand you.

Q. Yes, I believe I misstated the fact.

These figures, I am advised now, from New York, do include import and export traffic via all railroads serving New York.

[fol. 994] A. That was my recollection.

Q. Yes.

Exam. Boat: Are they taken from witness Mollman's Exhibit?

Mr. Macleay: Mollman and Crookshank, aren't they, you put the two together?

The Witness: Yes. I took all of the so-called northern railroads that furnished tonnages, I took all of the opposing [illegible] gures and consolidated them.

Mr. Moerman: Well, the total, Mr. Childe, of the exports and imports, via Baltimore, is in excess of 4,900,000 tons; are you looking at X-24?

A. Yes, sir.

Q. Adding the 3,300,000 and the 1,600,000—agreed?

A. That would be true.

Q. And the total via New York, adding the 2,300,000 and the 600,000, is about 3 million?

A. Yes, that of course includes the bulk commodities that some people think should be taken out in comparing the importance of the traffic moving through the several ports.

Q. What do you think?

A. Just on total tonnage, I think you have correctly stated the figures. In other words, I do not think a ton of coal or a ton of iron ore has an equal standing with a ton of machinery or other manufactured freight.

[fol. 995] Q. Did you ever know of any iron ore, chrome, manganese, or any kind of ore to move by truck from the Atlantic Coast inland to CFA territory?

A. I never heard of a truck movement of those bulk commodities.

Q. Did you ever hear of a truck movement of grain or coal for export?

A. You mean through the Ports of Baltimore and New York?

Q. Yes, sir.

A. It runs in my mind I have heard of some trucked grain, but it would be insignificant.

Q. Now, Mr. Childe, you have had a long and distinguished career in transportation. Is it your testimony bulk commodities are of no importance or of minimal importance to the railroads of this country?

A. No, I think they are all important. I don't mean a hyphenated word, but I mean all commodities are important.

Q. You referred to vast economic and other changes in the country at page 3, I believe, of your statement.

Isn't it a fact one of the vast changes referred to by you is the astonishing growth of imported ores via North Atlantic ports other than the ports of New York and Boston?

A. Yes, I think that is a remarkable change.

Q. And don't you think that the government program for supplying surplus agricultural commodities, princi-
[fol. 996] pally grain abroad, has produced millions of tons of export cargo for railroads?

A. That is one thing. Of course export grain always has been important to this country.

Q. And on your own figures, moving principally via the Port of Baltimore for export?

A. Well, no, New York was the first port for quite a number of years.

Q. That is true, historically.

A. It is only in recent years, relatively, that Baltimore has surpassed New York on grain.

Q. With a decline on the New York State barge Canal, correct?

A. Well, there have been a good many influences. I do not think that the New York barge canal has been the most important. It has been one of them.

Q. Well, isn't it a fact the differential has been the most important factor in influencing the movement of grain to the various North Atlantic ports?

A. It is a hard question to answer that in such sweeping terms.

You will recall, for example, on the ex-lake grain there

was an equalization some years ago, but up to date, I do not think New York has gotten much out of the equalization.

Q. Precisely, so if there were equalization here which is [fol. 997] opposed by the protestants, it is your opinion, is it not, that New York would have a hard time to capture a part of the grain traffic moving through competing ports?

A. I think all that would be required would be the construction of modern facilities at New York and then on an equalized basis New York would have, in my opinion, a very decided advantage over Baltimore.

Q. Do you know enough about Maritime practices to answer this question: If a vessel begins at Baltimore and New York is the last port of call, can it, as a practical matter, load grain as bottom cargo or in parcel lots?

A. Well, I do not pretend to qualify as an expert on loading grain, but I do think there is a good deal of truth in your suggestion that it would be advantageous to load the grain before you put on the top cargo.

Q. Yes, sir.

Now, Mr. Childe, turning to another subject briefly.

At page 23 of your statement you discuss competition from Gulf Ports.

Would you look at that, please?

Mr. Welsh: What page is that?

Mr. Moerman: 23.

The Witness: 23 of the statement?

Mr. Moerman: Yes, sir, at the bottom of the page. You talk about increased foreign trade?

[fol. 998] A. Yes, sir, I see it.

By Mr. Moerman:

Q. Isn't it a fact that because of the differential the New York Central, the Erie, the Boston railroads are in a worse position in connection with Gulf competition than are the Baltimore and Hampton Roads carriers by virtue of the differentially higher rate to and from the Port of New York, to and from CFA territory?

A. If I understand your question correctly, it means

that if the rate, say is 20 cents a hundred pounds from a point in CFA territory to New Orleans, and 22 cents to Baltimore, and 23½ cents to New York, is New York at a greater disadvantage than Baltimore? I think that is arithmetically correct, yes, sir.

Q. Yes. But isn't it true that a large body of rates obtains between the Gulf and CFA which is on the Baltimore basis? You are aware of that, are you not—other than the Todd Knott Formula?

A. I have in mind there is a certain amount of equalization of rates Baltimore versus the Gulf. Is that what you mean?

Q. Yes, in that situation New York and Boston railroads are up against it, are they not, with a 3-cent higher rate obtaining to and from those ports on export and import traffic?

A. They have a higher rate than Baltimore does.

Q. I see.

[fol. 999] Conversely, is it not true that Baltimore, by virtue of being on the gulf basis, or rather, Baltimore being on the gulf basis, with respect to certain commodities, is in a better position than the railroads serving the Ports of New York and Boston, to compete with the gulf?

A. So far as rates are concerned, to whatever extent the New York rate is higher than the Baltimore rate, you can consider that a disadvantage.

But there are so many other things that enter into the picture.

You know that New York seems to have no trouble at all in holding its commanding lead over all the other ports in the country.

Q. You are referring to the railroads at New York, or the Port of New York?

A. The port of New York.

Q. The port of New York?

A. Yes, sir.

Q. With respect to the St. Lawrence Seaway competition about which you talk in your testimony, the Baltimore and Ohio, the Norfolk Railroad, over the Pennsylvania Railroad will be in a better position, will they not, and are now in a better position to compete for traffic from

the interior as against the St. Lawrence than will the railroads at New York and Boston by virtue of the fact that [fol. 1000] the railroads at New York and Boston have a higher rate than do the railroads at Baltimore, Philadelphia and Norfolk, is that a fact?

A. To that extent, I agree, that Baltimore is better off than New York in competing against the potential St. Lawrence traffic.

Of course, when you come right down to the question of how is the grain going to move, you have to consider the St. Lawrence Water Route as against the New York Canal water route, and in that respect New York has the advantage over Baltimore.

Q. Yes. Now, do you know whether or not the present rates via the lakes are rail-water-routes or are they simply a factor to the port and then water routes beyond?

Are there any joint rates? I believe not, this is foreign commerce.

A. No, I think it is a matter of what-ever the charge is by lake vessel to Buffalo, or Oswego, or wherever it may be transferred, and by barge beyond.

Q. Are the rates, if you know, via the lake routes, via the St. Lawrence, lower than the all-rail routes on export and import traffic?

Mr. Macleay: I was lost on that, Mr. Examiner. I wonder if I could have that question restated or read?

Mr. Moerman: Yes, the witness talked about the effect [fol. 1001] of St. Lawrence competition on export and import traffic moving via the North Atlantic ports.

I simply want to ask him, knowing as we do the rail rate relationship on export and import traffic, at North Atlantic ports, what is the rate basis via the St. Lawrence?

A. Well, the St. Lawrence is an all-water route as we know.

Q. Yes, sir.

A. And the cost of moving wheat overseas via the St. Lawrence is a combination of the lake vessel charge to Montreal, Quebec, or somewhere along the river there, plus the ocean vessels' charge beyond.

Q. So that, as far as the shipper is concerned, he can ship wheat or grain abroad, most cheaply by a lake route,

next most cheaply via Baltimore or Norfolk, next most cheaply via Philadelphia, and last of all via New York and Boston, is that correct?

A. No, sir.

I would place them in this order: The all-water lake-ocean rate is the cheapest from the lake ports.

The next cheapest is the all-water-lake-New York barge canal-Hudson River route.

The next would be Baltimore-Norfolk Rail route, and then would be Philadelphia above that. Then would be New York and Boston above that, as far as the rail is concerned.

[fol. 1002] As far as your ex-lake rail rates are concerned, you have a different situation, as you know.

There the rate from Buffalo or other eastern lake ports would be the same to New York as to Baltimore and Philadelphia.

Q. Do you know how many canal boats are operating on the New York State barge canal today?

A. Did you say are there any?

Q. Do you know how many?

A. I do not have the figures.

Q. You do not know there are any?

A. No, sir, I do not know.

Q. You do not know the carriers are no longer meeting the published rates of such canal carriers as there might be on the New York-State Barge Canal?

A. It would be news to me to hear the canal had gone out of business.

Mr. Moerman: Well, it is news. That is all, sir.

Wait a minute.

By Mr. Moerman:

Q. I beg your pardon, Mr. Childe, my associates remind me that you were the gentleman, I believe, who selected from the Maritime Commission some figures for Mr. Hamill's exhibit, is that correct?

A. I obtained the data from which Mr. Hamill's exhibits were prepared.

Q. Just one question. Why did you eliminate or not

[fol. 1003] obtain the figures with respect to the bulk vessels?

A. We tried to get them, but we ran into some difficulties that delayed the thing to a point that we could not put them in at this hearing.

Mr. Moerman: Thank you very much. That is all.

Cross examination.

By Mr. Foley:

Q. Mr. Childe, if Boston rates to and from affected territory were equalized with Baltimore and Hampton Roads, would you feel the situation was lopsided?

A. Will you read that, please?

(The reporter read back the question.)

The Witness: You mean the rate from the West to Boston being lower than from the West to New York?

By Mr. Foley:

Q. Being on the Baltimore base. I am not asking you anything about the New York rate, the effect of that on the lopsidedness.

I am asking if Boston were equalized with Baltimore and Hampton Roads whether that would be a lopsided situation, using lopsided as you did when you first testified with regard to New York?

A. Do you mean merely from the differential territory, or from all the inland?

Q. From differential territory?

A. It would be lopsided in this respect.

Q. No, my question was in the respect that you used it, [fol. 1004] with respect to New York when you first answered Mr. Moerman's question?

A. I do not know as I clearly understand your question but if you mean, would that be a proper rate adjustment?

Q. No, I asked you if it would be lopsided.

I know, in answering with respect to New York, you said that if New York were equalized with Baltimore and Hampton Roads, you would consider the situation lopsided.

Now, I am asking you would you so consider it if Boston were equalized?

A. What I meant by that was I thought New York would get such a great preponderance of the business that the other ports would not have much chance.

Q. Do you say that with respect to Boston?

A. If your question is only Boston, and not New York, got the Baltimore rate, I do not think it would make much difference. I can't conceive of Bostor getting a lower rate than New York from the West.

Mr. Foley: May I object to that? That is not pertinent. May that go out, Mr. Examiner?

Mr. Macleay: He asked the question, he should be permitted to answer, Mr. Examiner.

Mr. Foley: That is not the question.

The Witness: Mr. Examiner, this may be facetious, I [fol. 1005] do not know, but if the result of reducing—

Mr. Foley: Mr. Examiner, there is no question pending, I object to the witness volunteering.

Exam. Boat: I think Mr. Foley's question was answered.

Mr. Foley: I have no further questions.

Exam. Boat: Does that complete the cross?

Is there any redirect?

Mr. Macleay: No redirect, Mr. Examiner.

OFFER IN EVIDENCE

I offer exhibit 85 in evidence.

Exam. Boat: You are excused, Mr. Childe.

(Witness excused.)

Exam. Boat: The exhibit is received in evidence.

(Exhibit No. 85, Witness Childe in support of Protestants was received in evidence.)

Mr. Macleay: I call Mr. Seal.

Exam. Boat: I think we might take a 10 minute recess.

(A brief recess was taken.)

Exam. Boat: Come to order, please, gentlemen.

C. R. SEAL a witness was duly sworn and testified as follows:

Direct examination.

By Mr. Macleay:

Q. Will you please state your name and business connection and address for the record.

A. Charles R. Seal, director, transportation department, Maryland Port Authority, 10 Light Street, Baltimore, Maryland.

[fol. 1006] Mr. Macleay: Mr. Examiner, I ask that Mr. Seal's verified statement previously distributed be marked for identification.

Exam. Boat: That will be identified as exhibit 86.

(Exhibit No. 86, Witness Seal in support of Protestants was marked for identification.)

By Mr. Macleay:

Q. Do you have a correction to make on exhibit 86?

A. On sheet 11 there is a typographical error in line 16. At the beginning of the line the citation 210, I.C.C. should be 219, I.C.

This stenciled copy does not run the same as the others.

Q. Let us locate it in the original.

Exam. Boat: That is correct on the copy I have.

Mr. Macleay: Yes, but apparently it does not run the same on the original.

By Mr. Macleay:

Q. I give you the original and ask you if you will locate it and make the correction there?

A. All right.

The typographical error is in line 8, on sheet 10 of the original.

Q. What is it now?

A. The correct citation should be 219 I.C.C. 151, instead of 210.

Mr. Macleay: The witness is tendered for cross examination.

[fol. 1007] Cross examination.

By Mr. Miller:

Q. Mr. Seal, these export-import rates are restricted, are they not, to traffic which moves either initially or subsequently by ocean-going vessels, some sort of a restriction like that?

A. Do you mean beyond the ports?

Q. Yes.

A. As far as I know, yes.

Q. Now, isn't it proper to characterize the rates like that as proportional rates, that is, the rail rates that are involved?

A. Oh, I have heard them so referred to, but they are—but the port is the origin or destination of the movement, subject to the Commission's jurisdiction, and in my judgment it must be passed upon and determined by the Commission independently of the ocean movement.

Q. But you would agree, would you not, that these export-import rates are a specie of proportional rate?

A. Well, they are a rate applicable to the land part of land and ocean movement.

Q. That sort of thing is very often called a proportional rate, isn't it?

A. Well, a proportional rate is a proportion of a through rate. Now, these may not be through rates in that sense but there is a through movement.

[fol. 1008] Q. Well, I notice you hesitate to call them proportional rates.

Do you have any reason for being hesitant about it?

A. No, no particular reason.

Q. Then do you agree they are a type of proportional rate?

A. Well, opinions might differ.

They could be regarded as such by some. I regard them as a rate unto themselves. I think of a proportional rate as a proportion of a through rate, both parts of which are subject to I.C.C. jurisdiction. That is my own thought.

Q. Don't you have proportional rates by rail for example up to the Canadian border without any regulation of the through rate past the border into Canada?

A. Well, I think they probably are published as through one-figure rates. The Commission's jurisdiction ends at the border.

Q. There are, also, in addition to through rates, proportional rates published to the border, are there not?

A. There may be some.

Q. The same would be true of rail-water or water-rail rates involving water carriers inland that are not subject to the Commission's jurisdiction for example the bulk carriers, would not that be true, too?

[fol. 1009] A. Do you mean a rail rate applicable to a movement going to a bulk water carrier?

Q. Yes.

A. That might be a straight domestic rate, or it might be a rate based upon the further water movement.

Q. If it was based on the further water movement, it would be termed a proportional rate, would it not?

A. It might be.

Q. Isn't it true that—or do you agree it is true that these justifications for these special promotional rates are based upon the fact that there is a further movement beyond the point at which the proportional rate is published?

Mr. Macleay: May I ask counsel what he means by "special proportional rate". I have not heard the witness refer to anything like that.

Mr. Miller: Special or proportional rate.

The Witness: Well, they are rates that are published to apply on traffic which has had or which is to have a movement by water and which may be different from the domestic rates between the port and an interior point.

By Mr. Miller:

Q. The original justification of these export-import rates that are involved in this proceeding was on the theory, was it not, that these were a factor in the through rate to and from points beyond the United States?

A. I do not know whether that was the theory or not.

[fol. 1010] Of course they were agreed upon and established to abate rate wars and to some extent, reflect the relative advantages of the ports, and create a competitive condition.

Q. These exports differ from the domestic rates, did they not?

A. Beg pardon?

Q. These export rates differed from the domestic rates, did they not?

A. Not in the beginning, not when they were made. They did not differ until after the Eastern Class Rate Adjustment became effective about I guess, 1930, prior thereto the export and domestic rates were the same. To the port cities they all reflected the differentials.

Q. There were no instances at all where the export-import rates differed from the other rates prior to 1930?

A. There may have been some instances in the case of special commodity rates. I was talking there, as I should have said, about the class rate adjustment. I can not say whether or to what extent there were variations from it as to commodity rates.

Q. But were there commodity rates, export and import, prior to the 1930's which differed from the domestic rates?

Mr. Macleay: Mr. Examiner, I think the witness just said he did not know.

The Witness: I had not analyzed the commodity rate [fol. 1011] adjustment as of that period.

By Mr. Miller:

Q. Is this export-import traffic carried preponderantly on commodity rates or class rates?

A. Well, in the early days it was carried in an equal quantity on class rates with exceptions, there were always some exceptions like grain.

Q. What do you mean by the early period?

A. I would say prior to 1930.

Q. Do you believe that prior to 1930 it was preponderantly carried on class rates?

A. Of the general cargo traffic, except such as iron and

steel and grain, probably. I would not state that as a positive fact. That is my belief, you might say recollection.

Q. Did you see Mr. Cowling's statement for GSA which states there is only about 12 per cent of this GSA traffic in 1955 and 1956 to and from differential territory that was carried under the class rates?

A. I did, and I think that was because about 90 per cent of the traffic was ore.

Q. Do you think at the present time the higher percentage of the traffic than that is carried by the class rates?

A. I do not know.

I have not made a study of traffic moving at class rates versus commodity rates, and I can not give an accurate answer to a question of that kind.

[fol. 1012] Q. Would there be any justification for a difference in domestic rates as compared with export-import rates except upon the theory that the export-import rates were proportional rates?

A. Well, they were designed to establish certain rate relationships as between ports.

Q. And they differ, do they not, from the domestic rates?

A. Generally speaking.

Q. Is there any justification for that difference except they are proportional rates to and from foreign origins and destinations?

A. Well, I think the basic reason is because they apply on traffic to and from foreign origins, and as I said are designed to create or intended to provide competitive opportunities for the ports.

Q. Do I gather from your prepared statement there was equalization of the ocean rates as between the North Atlantic Ports as early as about World War I?

A. That was the Commission's statement.

Q. Well, independently of what the Commission said. Do you know that to be a fact or not?

A. No, of my personal knowledge, I do not.

Q. Do you know of any definite basis for determining just when ocean rates to and from the North Atlantic ports became equalized?

Is there any way of ascertaining when that happened?

[fol. 1013] A. I suppose there would be.

Of course, in the early days, ocean carriers were not adhered to. There wasn't any requirement that they be.

Q. And, as to the so-called bulk cargo, the rates are still open-market rates, are they?

A. I suppose so. I am not an expert in ocean rates particularly.

Q. It would only be to the extent that the carriers adhered to conference rates on the general cargo that we would find a fixed basis for the ocean rates, isn't that true?

A. I do not know, I suppose competition to some extent exists between ocean bulk carriers, that keep the rates pretty well in line.

Mr. Miller: Those are all the questions I have. Thank you.

Exam. Boat: Are there any further questions?

Is there further cross? (No response.)

OFFER IN EVIDENCE

Mr. Macleay: I offer exhibit 86.

Exam. Boat: Exhibit 86 is received.

(Exhibit 86 witness Seal is received in evidence.)

Exam. Boat: You are excused.

(Witness excused.)

Exam. Boat: Proceed.

Mr. Macleay: Mr. Examiner, we have only one further witness other than Mr. Stanton who is laid up and not able to be here.

[fol. 1014] And that is Mr. Charles A. Masson. Mr. Masson is unable to be here today and we have learned he will be unable to be here tomorrow. I assume the hearing will conclude. I again would ask your indulgence and that of counsel that we present him on March 25. He has very important business engagements which makes it impossible for him to be here.

Exam. Boat: Is that agreeable?

Mr. Miller: Sure.

Exam. Boat: Very well.

GEORGE ROACH a witness previously sworn, resumed the stand and testified further as follows:

Mr. Hanifin: Mr. Roach has already been sworn.
Exam. Boat: Off the record, please.

(Discussion off the record.)

Exam. Boat: On the record.
We are ready.
Mr. Hanifin: Mr. Roach is ready for cross-examination.
Mr. Keenan: Is the witness available for cross now? Is he tendered for cross now?
Mr. Hanifin: Yes.

Cross examination.

By Mr. Keenan:

Q. Mr. Roach, is the conclusion from page 8 of your statement that Hampton Roads shippers desire their consignments to spend as little time as possible in transit so [fol. 1015] far as you have received information on the matter?

A. That is right.

Q. Therefore, is it a fact they want their consignments dispatched via the first sailing to leave the port after arrival at the Port of the consignment?

A. I do not get that question. I am sorry. Would you repeat it?

Q. Is it a fact, then, that the shippers we have been referring to want their consignments dispatched via the first sailing to leave the port after the arrival at the Port of the consignment in question?

A. No, they are not only anxious to get the cargo aboard the ship in the minimum amount of time, but they are also anxious for it to reach its ocean destination without any further on-carriage from Newport News up to other north Atlantic ports, if that is what you mean.

Q. Well, I do not know whether that is precisely what I mean.

Once a consignment reaches the port, is it your understanding that they want it loaded on a ship right away as soon as possible?

A. Yes.

Q. And it is your point, if I understand you right, that at the port of New York, in your opinion, such carrier patrons can be reasonably sure their consignment will find a sailing [fol. 1016] within a day or so of its arrival at the port?

A. That is right, sir.

Q. Now is this a pretty universal characteristic of the traffic the Port of New York attracts in your opinion?

A. Yes, that and the fact that steamers load there usually last, the last north Atlantic port in the trade.

Q. Then there would be really relatively few shippers, wouldn't there, to whom it would be important whether a consignment can be held at the Port of New York beyond the 7 days' free time to which you refer at page 28 of your verified statement?

A. No, I say the majority of them are very much interested in that situation.

Q. Well, Mr. Roach, when you conclude that New York's services are better than Hampton Roads' services, on which contention do you rely, the proposition that frequent sailings at New York permit early dispatch of arrived consignments, that is the one you make at page 8, or the proposition that consignments can be held stationary at New York beyond the 7 days' free time without charge, that is a contention you make at page 28?

A. Yes. All right, well, the free-time situation has a lot of facets to it. New York is chosen for a number of reasons. 1, that if your cargo does not clear on a ship for one reason or another, you may miss the sailing date out of New York, that you scheduled it for, you can use the steamship piers for storage.

[fol. 1017] Another, which is used very frequently, is for cargo assembly. You have a man that has fifteen to twenty-five carloads of freight. He is buying from various points in the country, and he will consign that traffic to New York and that carload assembly will take place on New York steamship piers without running into the free time problem such as he experiences at Newport News.

Q. Your answer, then, assumes Mr. Roach, does it not, that in significant number of instances, at the Port of New York, cargoes miss sailing dates for in excess of 7 days?

A. Not exactly so, no, but—

Q. Let me inquire. Does this free time that you talk about at New York result in any benefit to a patron until—does the storage service that you refer to at New York, result in any benefit to the patron beyond the 7 days' free time—until the cargo has been there beyond the 7 days' free time allowed in the rail tariffs?

A. That is quite right, and I have also qualified in my testimony that every shipper does not take advantage of this free pier storage situation, that is a device on which they can rely if they need it. It is not obtainable at Newport News.

Exam. Boat: Off the record.

(Discussion was off the record.)

Exam. Boat: On the record.

[fol. 1018] By Mr. Keenan:

Q. Mr. Roach, when you gathered the data for your studies in your exhibits GR-2 and GR-3 to which you refer at page 9 of your verified statement, concerning sailings in June of 1957?

A. Page 9 of my statement, exhibit GR-2,

Q. And 3, Mr. Roach, yes.

A. Let me look at that.

Q. You tell me when you have reference to this material, please.

A. All right, I have those two before me.

Q. When you gathered this data and selected it, Mr. Roach, did you do so on the assumption that June is a representative month in the year for total sailings from Hampton Roads?

A. I think it is fairly representative.

Q. You did make this assumption, then, did you not?

A. Yes, I would say so.

Q. Are we in agreement, Mr. Roach, you and I, that a representative month would neither be the heaviest nor the lightest month in terms of frequencies of the thing to be represented?

A. That is a logical conclusion.

Q. Now, do sailings at Hampton Roads increase appreciably with the beginning of the tobacco export season?

A. I would not say sailings increase, but our export tobacco tonnage may increase appreciably. I do not think you will find—and I have not made a particular study of [fol. 1019] it, since there isn't too much tobacco from the affected area—I do not think you will find tobacco has caused too much of an increase in steamship service, that our tonnage of tobacco does increase at various times of the year.

Q. Well, Mr. Roach, I should like to invite to your attention some testimony for which you are not responsible, but which is placed in the record by a representatative of the Virginia Port Railroad, solely to find out whether you are in agreement or disagreement with him, so we will know where we stand on the record?

A. Yes.

Q. At page 12 of Mr. Sawyer's verified statement—let me see, is that in evidence?

A. I do not have it.

Exam. Boat: Not yet.

Mr. Keenan: It is proposed to be put in evidence, and I ask the Examiner for permission to examine it, as Mr. Sawyer will be on the stand later, instead of recalling Mr. Roach to the stand again, which is a time-consuming procedure.

Mr. Macleay: Isn't Mr. Moerman going to object?

Mr. Keenan: I have not consulted with Mr. Moerman on this.

By Mr. Keenan:

Q. On page 12 of Mr. Sawyer's testimony, he says, "I would like to point out Mr. Laux referred to, in his testimony, sailings during the fall months. This is not a representative period for Hampton Roads, as it is the peak [fol. 1020] season for tobacco shipments, the season for which begins in August and extends through January, with the preponderance of the tonnage clearing in September, October and November."

That concludes my specific reference to his testimony, Mr. Roach.

A. Yes.

Q. Now, I would infer from this that Mr. Sawyer meant to suggest that tobacco tonnage had an effect on sailings. Perhaps he did not mean that and we will find out.

In your opinion, in the light of this testimony, does tobacco tonnage have any effect on sailings at Hampton Roads?

A. Oh, yes, it does.

Q. On the frequency of sailings?

A. On the maintenance of sailings.

Q. Well, I guess I will have to ask you to distinguish maintenance and frequency of sailings for me.

A. By maintenance we have to depend in Newport News now—we must depend on tobacco for one-half of our general cargo export traffic. It is a continuous string through Newport News. I think, if you talk to Mr. Sawyer you will find out—I think he has told me—he does not enjoy the same volume of tobacco at Norfolk that Newport News does. That may account for his theory in regard to the build-up of his ship situation on the Norfolk side.

Q. Well, then, would the inference be a correct one from [fol. 1021] this, Mr. Roach, that although so far as the Norfolk and Western is concerned, there is a tobacco season which begins in August and extends through January, the C & O is so fortunate as to experience a 12-month, year-round tobacco season with regard to shipments?

A. Well, I would say without a study as to exactly when our tobacco was offered for clearance, month by month, I would be unable to say, but tobacco is a continuing business. It is not generally from affected territory. For that reason, the study is not as complete as you would like it.

Q. I can understand that.

The fact remains, does it not, Mr. Roach, that this is a type of traffic which is quite important to your railroad, right?

A. Yes, sir, it is.

Q. It is one you personally have had occasion to follow closely during past months and years, isn't that right?

A. Yes.

Q. Surely, if there is a peak season with regard to tobacco exportation via the C & O, you are aware of it, are you not, Mr. Roach?

A. There would be a peak season at different times of the year, but I had not noticed it made such a violent change in our steamship situation.

Q. I see, sir.

[fol. 1022] Regardless of what kind of a change it makes, when does that season begin and end?

A. Well, for ship clearance, I would have to take what Bill Sawyer has said, if he has made that survey, but tobacco is harvested in the fall of the year and is put into storage warehouses and when it is ready for exportation it is offered to the ships.

Q. Well, of course, Mr. Sawyer refers not to the Port of Norfolk, but to the Port area of Hampton Roads, and says that with regard to Hampton Roads a more representative period in his view would be one beginning in August and ending in January, roughly, to paraphrase it.

Would you accept the conclusion he reached on the basis of his surveys?

A. I should not like to have to comment on his testimony or exhibits, because I think when you cross examine Mr. Sawyer you will find out he is talking about one area of the world.

Q. I see.

A. Whereas Chesapeake and Ohio at Newport News on their tobacco business has a general run of tobacco usually world-wide.

Q. Well, at any rate, Mr. Roach, if tobacco exportation were to have an effect on frequency of sailings, and if that season did begin in August and end in January, then June clearly would not be a representative month?

A. That is right.

[fol. 1023] Q. Well, now, does the fact that—in your opinion, does the fact that a port is serviced more frequently with sailings and another port is serviced more frequently than Hampton Roads, tend to give that port advantages over Hampton Roads?

A. Yes.

Q. Have you compared Hampton Roads' sailings with sailings to and from Baltimore and Philadelphia, as you have with New York at page 8 of your verified statement?

A. I had not except from my own general knowledge.

Q. Have you had occasion to review Mr. Hamill's exhibit that has been under discussion this afternoon and this morning?

A. I have read most all of them but exactly—I have not studied them carefully.

Q. Have you received the impression that Mr. Hamill's exhibit gives some rough approximation of comparative sailings at Hampton Roads, Baltimore and Philadelphia?

A. I understand it does.

Q. At page 7 of your verified statement, Mr. Roach, at the bottom of the page, when you say, while the loss of any traffic is a serious blow to Hampton Roads because of the small volume of general cargo presently handled, an equally serious consequence would be an accompanying loss of steamship service.

When you say this, do you mean to imply that a loss of tonnage at Hampton Roads would ultimately decrease—[fol. 1024] would ultimately result in a decrease in the number of sailings which service that port area?

A. I do.

Q. Is this true of differential territory import-export tonnage?

A. It would affect our entire situation. If we were cut out of general cargo business from the affected territory through Newport News, any business we would have left to offer would be tobacco, and the ships will not come in to Newport News for just tobacco.

Also, we cannot maintain our pier properties properly on a depressed level of rates such as tobacco brings.

Q. If I understand you correctly, and I should like you to confirm this—in your opinion has the acquisition and retention of differential territory tonnage served to increase the number of sailings which serve Hampton Roads?

A. Has the acquisition?

Q. And retention of differential territory tonnage served to increase the number of sailings which serve Hampton Roads?

A. I don't know that it has particularly increased. It depends on what period of time you have in mind.

Q. At any times, Mr. Roach?

A. There are more ships in the trade today, I presume there is an increase in steamship service in the last 10 years.

Q. Is it your opinion that the differential territory ton-
[fol. 1025] nage which Hampton Roads has enjoyed is a contributing factor to such increase as there has been?

A. In the steamship business?

Q. In sailings servicing Hampton Roads?

A. I think so.

Q. Do I understand correctly that your conclusion is that if you should lose differential territory tonnage, you would lose sailings at Hampton Roads and hence, jeopardize your non-differential territory tobacco export tonnage, if I can use that terminology?

A. That is right.

Q. I think you refer to that at page 7 of your statement at the top.

Now, it follows, does it not, Mr. Roach, from what we have just been talking about that without this differential territory tonnage Hampton Roads actually would not have all the tobacco tonnage it has today in your opinion?

A. We are losing ground on tobacco constantly, we were the prime tobacco port at one time. We are constantly losing ground.

Q. Regardless of what you are doing, Mr. Roach, does it follow that, in your opinion, a decrease in your differential territory tonnage would, to some extent, jeopardize the amount of non-differential territory tobacco tonnage that you handle?

A. I do.

[fol. 1026] Q. And tobacco would bypass Hampton Roads in that event for Baltimore, Philadelphia or New York?

A. Oh, no.

Q. Or possibly go down to more southerly ports?

A. I think I brought that out, we would expect it to go further south.

Q. Is there any reason why the same factors as those we have just been discussing will not cause Boston to be deprived of sailings because of lack of differential territory

tonnage, and hence, New England tonnage to bypass Boston for New York which is serviced by more frequent sailings?

A. Well, I will try and answer your question. It seems to me like you have several there, but bear with me and I will do the best I can.

When you compare Boston with the Port of Newport News, which is the only way I can answer or make any attempt to answer your question, I don't know what Boston's base tonnage might be. In order for us to exist as a port at Newport News, we have to start with a base or nucleus. We have that nucleus in tobacco, and we are holding on to it with much effort.

We attribute to that the general cargo business. I do not know the situation at Boston, I do not know what their tonnage picture is, I have no idea, so I could not give you a sensible answer. I think the counsel for General Services asked me the same question last night. I told him I could [fol. 1027] not give a conclusion.

Q. If it has already been discussed on the record, I will not elaborate or ask you to, Mr. Roach.

Will you refer to page 25 of your verified statement and its discussion of exhibit GR-8, which is a traffic study of traffic originated by the C & O in Ontario, as I recall?

A. Yes. I have it.

Q. How did the 14 cars move, reflected by exhibit GR-8 between Ontario and the Port of Newport News, via what route?

A. They moved C and O over our Pere Marquette Railroad.

Q. C & O, Period, is that right?

A. Yes, all the way.

Q. Have you any record, Mr. Roach, of the amount of tonnage of the number of cars which, during the same period moved from the same C & O origins to Baltimore and Philadelphia?

A. No, I do not believe I participated in any. I have not made such a tabulation, but I think I am very sure that I can make the statement there was no traffic from that Ontario origin to Baltimore-Philadelphia.

Q. Would you for a moment suggest that because the

C & O was able, during this period, in Ontario, to originate no traffic to Baltimore and Philadelphia, as you can recall it now, that other railroads serving the same Ontario origins were unable thus to originate traffic for Baltimore and Philadelphia?

[fol. 1028] A. I am sorry, I do not understand your question.

Q. It does not follow from the fact that the C & O could not get any traffic from this territory to Baltimore and Philadelphia, that the other railroads serving the territory could not get such traffic, does it?

A. I can't comment about what the success of other railroads might be.

Mr. Hanifin: I think, if Mr. Keenan would please identify the other origin railroads serving this Canadian Territory, you would help Mr. Roach out.

Because, I think he is assuming that there are only two lines serving this general territory, and that is the New York Central and the C & O. What other lines would you have in mind that would originate some traffic in the Canadian Territory that could move to any port?

I think the question should be clarified a little bit.

Mr. Keenan: Well, if the Examiner desires to give me permission to testify in this case, I do not know whether it would help very much but I would be glad to go ahead. Absent such state of affairs, I am not going to put information in the record, sir.

Mr. Hanifin: Your questions are based on assumptions, and we are entitled to a definition of the assumptions, that is all I am interested in.

[fol. 1029] Mr. Keenan: I think the answer to the question is self-evidence.

It would be time-consuming to belabor the matter any further, Mr. Examiner.

By Mr. Keenan:

Q. Have you any information, Mr. Roach, acquired in connection with your preparation of GR-8 as to what the total tonnage was moving from Ontario to the Port of New York, and the total tonnage moving from Ontario to the

Port of Newport News or any port in the Mapton (sic) Roads area, regardless of who carried it?

A. Via Chesapeake & Ohio only. I do know.

Q. Only by the C & O, right?

A. Yes.

Q. Is it your opinion that the C. & O's traffic pattern would be typical of the traffic pattern or traffic flow which would characterize all roads serving Ontario?

A. I would say this: Out of Ontario, as you probably know, your freight rates to all north Atlantic ports are the same, the only way an out-port such as Newport News, Norfolk, Baltimore or Philadelphia, can attract traffic out of there, is usually by being the last port of loading. I know mostly about Norfolk. The traffic we have been able to attract out of Canada has been to Australia, New Zealand, and Newport News has been very fortunate being the last loading port on the north Atlantic Coast.

[fol. 1030] That situation does not prevail for Baltimore and for Philadelphia.

Now they get Australia ships 'way in advance of New York, and three weeks sometimes in advance of Newport News, in fact.

Q. Mr. Roach, I guess I gather, but you had better confirm it for me, that your answer to my question is no, or do you remember what the question was?

A. I thought I had answered it.

If I have not answered it, let us repeat the question, please.

Q. Do I understand your answer in substance to be, no, or in the negative?

Mr. Hanifin: Let us have the question read.

Exam. Boat: Read the question.

(The reporter read the pending question as previously recorded.)

The Witness: I would say no: The Chesapeake & Ohio is an exception.

Mr. Hanifin: What is your answer?

The Witness: No, our situation is different.

By Mr. Keenan:

Q. Mr. Roach, so far as this origination of traffic in Ontario is concerned, between Ontario and Norfolk—

A. Newport News.

[fol. 1031] Q. Does your exhibit—off the record.

(Discussion was off the record.)

Exam. Boat: On the record.

Proceed.

By Mr. Keenan:

Q. Does Mr. Jefferson's exhibit TJA—indicate accurately the route that would be followed by this traffic referred to in the first column of your exhibit GR-8 between Ontario and Hampton Roads?

A. I am sure it does.

Q. Would it be accurate and fair to characterize the initial part of such a movement as a backhaul?

A. It depends on where in Ontario the traffic originates.

Q. Let us take for example from—

A. Let us take Windsor as an example.

Q. Welland?

A. We do not get any traffic from Welland.

Q. How about St. Thomas?

A. The traffic did not originate at St. Thomas.

Q. Did this traffic originate at any point east of St. Thomas—any of this traffic?

A. No, it originated west, and within just a few miles of the United States border closing.

Q. Have you got your records on this with you?

A. Of the traffic itself?

[fol. 1032] Q. On this GR-8?

Have you got any underlying documents, Mr. Roach?

A. I think I do have.

It might take a few minutes to find them.

Q. Have you got them here in the hearing room—

A. —to find them.

Q. I won't ask you to get them right now.

Now, I want to know whether they are here, Mr. Roach.

A. I am quite sure I have them.

Mr. Hanifin: We can get them if you want them.

Mr. Keenan: At some time, Mr. Examiner, I assume, then, when we would not be interrupting the proceedings, I should like to take a look at the record.

Mr. Hanifin: If the Examiner please, with respect to looking at the underlying data, it can be viewed with certain restrictions.

Of course, we are not going to disclose any confidential information of the shippers to be spread on this record.

Further than that, with respect to any shipments which would originate in the United States, we would be precluded by the Interstate Commerce Act from doing that, but we would be glad to let Mr. Keenan take a look at it for whatever purpose he wants.

Mr. Keenan: Well, if counsel will let me look at it, I will postpone any further questions until after I have seen [fol. 1033] it.

Mr. Hanifin: Let us get it right now.

Mr. Keenan: We do not need to look at it right now.

Mr. Hanifin: Why not? What do you want?

Mr. Welsh: Let us finish it up.

Mr. Keenan: O.K.

Mr. Hanifin: We are not going to bring him back. We have the records right here, the bills and everything; what do you want?

Mr. Keenan: We have fourteen cars I would like to take a look at. That is not very tough to work out, five in May, and 9 in June.

Mr. Hanifin: Mr. Examiner, if you please, we are going to tender these bills, which are the underlying documents with respect to our movements, with the understanding no information as to consignors or consignees will be spread on this record.

It is for a very privileged use by counsel.

Mr. Welsh: Mr. Examiner—

Mr. Keenan: I do not want to mention the identity of a shipper or receiver, certainly not.

Mr. Welsh: Mr. Examiner, will destinations and points of origins be shown?

Mr. Keenan: Let us look them over briefly.

(Counsel view the documents.)

[fol. 1034] Mr. Keenan: Thank you very much.

Mr. Hanifin: All right.

By Mr. Keenan:

Q. Mr. Roach, at page 20, concerning your GR-8, you advise us that it provides a further check of the competitive position of Hampton Roads viz-a-viz New York on traffic which moves on equal rates?

A. Yes, sir.

Q. I withdraw the question, Mr. Roach.

A. All right.

Q. At page 7 you make reference to subsidized port operations, Mr. Roach.

Now, tell me what type of operations you have in mind?

A. Well, it has a completely different type of port operation than that which exists in Newport News.

Q. Please describe it.

A. The Chesapeake & Ohio Railroad Company pays for the pier properties and maintains the pier properties in Newport News, Virginia. Those I would term are private funds rather than public taxpayer money. I think a port which is maintained by taxpayer money is subsidized.

Q. Mr. Roach, you refer at page 7 to "South Atlantic ports."

A. Yes.

Q. And you say, at some of them or all of them, "I am not sure which, there are subsidized port operations."

Name one such port to me, please.

[fol. 1035] A. Well, I would say Savannah.

Q. What happens at Savannah that, in your view, causes the port operation to be a subsidized one?

A. Selfishly, it is a very attractive one in this respect: That at Savannah they give 17 days' pier free time.

Q. Are you sure—are you bearing in mind I am asking about what happens at Savannah that makes the operation a subsidized one?

A. I am sorry. I thought you meant what makes it attractive?

Q. No, I did not mean that, sir.

A. Some of the piers at Savannah are paid for out of the taxpayer's money, maintained on taxpayer's money, the same situation prevails at some other south Atlantic ports, such as Charleston.

Q. Yes.

Now, is it your understanding that such piers are paid for by collecting moneys out of general taxes?

A. Oh, I do not know how it is obtained but I know the railroads do not have to pay for the piers and build them the same way the Chesapeake and Ohio does.

Q. Is your idea of a subsidized port operation one where the railroads do not own their own piers and somebody else does?

A. No, what I mean to say by subsidized operation is one that is done with public funds versus Chesapeake & Ohio's [fol. 1036] private funds.

Q. Well, when you talk about public funds, do you mean that the maintenance of the pier is paid for from moneys raised by taxation?

A. I presume so.

Q. That is what public funds is, moneys raised by taxation, right, sir?

A. I would assume so.

Q. Is it your understanding that at the Port of New York the publicly-owned facilities are paid for and maintained by moneys raised by taxation?

A. I do believe so.

Q. And has your testimony been predicated on that assumption with regard to subsidized pier operations?

A. To an extent.

Q. To what limitation is the extent—to what extent?

A. It is influenced by newspaper articles appearing lately, the issue between the City of New York versus the State Port Authority of New York, and they come out and talk to each other in the press about the extent of subsidies and subsidization.

Q. I would assume from what you have told me right now that your testimony is predicated on the assumption that the Port of New York Authority which owns the pier

facilities there is not a self-supporting institution from a [fol. 1037] revenue point of view?

A. Basically the New York railroads do not build the piers where the ships load.

Mr. Keenan: May the witness answer the question, Mr. Examiner, please?

Maybe there was an honest misunderstanding, I do not know.

The Witness: May I have the question?

Mr. Keenan: Will you read it, please?

(Thereupon, the reporter read the pending question as previously recorded.)

Mr. Bongartz: I would like to have that question clarified.

Mr. Keenan: So far as I can see, it is perfectly clear.

If it is not clear to Mr. Bongartz, I do not know what to do about it.

Is the witness in doubt about it? I think that is the only question.

Exam. Boat: Do you understand the question?

The Witness: Well, I have a general idea what he means, sir.

They have got to get their money from somewhere. If they do not get it from taxes, they must get it from bond issues and so forth.

By Mr. Keenan:

Q. Your testimony concerning the advantages of sub- [fol. 1038] sidized operations at ports competitive with Hampton Roads is predicated on the assumption, is it not, that port facilities are subsidized in New York in such fashion that the expense of acquiring them and maintaining them is defrayed by tax revenues?

Mr. Hanifin: Well, now, just before the question is answered: I want to know to what direct testimony or where Mr. Roach said the Port of New York was or was not subsidized? I will agree with you that it is, but I want to know where his testimony says it is.

Mr. Keenan: Well, then, perhaps.

Mr. Hanifin: I want the question answered, if the Examiner please.

Mr. Welsh: He testified New York was a subsidized port in answer to a question.

Mr. Keenan: I respectfully decline until the Examiner asks me to, to answer questions of counsel.

I do not think that is the way we try cases—

Mr. Hanifin: I will object to any questions with respect to New York questions, whether they are subsidized or not. I will stipulate that with counsel if he wants to, but I think it should be identified in his testimony what he is referring to.

Exam. Boat: I think the witness mentioned that fact, did he not?

[fol. 1039] Mr. Hanifin: Where?

Exam. Boat: Just a moment ago.

Mr. Keenan: Just a minute ago, of course.

Mr. Welsh: Just a moment ago.

The Witness: You were asking me about South Atlantic ports.

Mr. Hanifin: He mentioned it in a very general sort of way, I mean, as far as the details of the thing, I do not think Mr. Roach has testified as to where the public funds came from.

Mr. Welsh: If your Honor please, he indicated in just those words, that New York was a subsidized port.

Mr. Hanifin: He also said that he had been reading in the paper where there are several different authorities and conflicting opinions in New York as to whether they are subsidized or not, but I do not see any place in here where he holds himself out as an authority to the precise nature of how New York gets their funds.

Mr. Welsh: Mr. Examiner, I will concede that what he said was hearsay, there is no doubt of it, but he apparently adopted those as his own idea on the matter.

Exam. Boat: Can we get this straight here?

Maybe we ought to straighten it out.

Mr. Keenan: I will be glad to ask Mr. Roach another question.

[fol. 1040] I think that will make Mr. Hanifin feel better about the whole thing.

By Mr. Keenan:

Q. Do you contend that Hampton Roads is at a disadvantage, viz-a-vi, New York, because New York port operations are subsidized?

A. I do.

Q. It is your understanding that they are subsidized, is that correct, sir?

A. That is my understanding.

Q. And your testimony is predicated on that assumption, is it not, sir?

A. My testimony does not say that. My testimony deals with subsidization of southern port operations. May I read it to you?

Exam. Boat: I think it is clear.

By Mr. Keenan:

Q. I am afraid your answer is a fair one, Mr. Roach.

Exam. Boat: I meant his original testimony refers to the southern ports.

The Witness: Yes, sir.

By Mr. Keenan:

Q. What I wanted to know was whether one of the factors —I withdraw that.

You have reached, I gather, from all of your testimony together, Mr. Roach, that Hampton Roads is at a competitive disadvantage with New York for various reasons?

[fol. 1041] A. For various reasons, yes.

Q. In reaching that conclusion, regardless of whether you disclosed it in your direct testimony as one of the factors which you took into consideration, and on which you rely, has been the assumption that the pier and terminal operations at the Port of New York are subsidized?

Mr. Hanifin: I am going to object to the question, if the Examiner please, because it states in the question, itself,

that it is asking Mr. Roach about matters which are not contemplated by his direct testimony.

Exam. Boat: He wants to find out whether they were contemplated or not in making the statement.

The Witness: They were not contemplated.

Mr. Keenan: That is not quite what I asked, Mr. Examiner. I want to know whether the witness' general conclusion as reflected by his testimony, was supported in any way, even though he may not have disclosed that point.

Mr. Hanifin: Are you talking about the free time on piers, Mr. Keenan, or just what are you talking about in the way of subsidy?

I think you ought to identify it, because Mr. Roach has not testified about it. If you are going to cross-examine him on something that is not in his direct testimony, I think you ought to tell him specifically what you have in mind. I think it is an unfair question.

[fol. 1042] Mr. Welsh: Mr. Examiner, he very carefully indicated what he considers as a subsidized port. He selected Savannah. He gave some incidences from it. He took Charleston, he gave some incidences from that, and then he went up to New York. I think he was very clear on that.

Mr. Claytor: You took him up to New York.

Mr. Hanifin: You took him up there. I think he is entitled to be cross-examined on his direct testimony.

Mr. Welsh: I do not want to say counsel did not protect him in his direct testimony, the fact is, he went to New York, whether he did it on his own volition, or whether he did it in spite of or because of.

Mr. Keenan: Mr. Examiner, out of some weariness and a conviction that this issue is not going to be determinative in the case, I think I will abandon the line of interrogation. We have too much to do to spend more time on this.

Exam. Boat: Let's get on.

By Mr. Keenan:

Q. When, at a given port, Mr. Roach, there is a decline in average cargo loaded per vessel—I will withdraw that.

Have you any reason to believe that vessels are leaving the United States for foreign shores with less cargo per vessel today than they had in 1938?

Mr. Hanifin: From where, sir?

Mr. Keenan: May the witness answer the question?

[fol. 1043] Mr. Hanifin: No, then I am going to object to it, sir, because the question is too broad.

You do not give the witness a chance. He might be talking about Port Said, for that matter.

Exam. Boat: I agree, it is a broad question. Can he answer?

The Witness: It is pretty difficult to make a sensible answer without conducting a survey.

By Mr. Keenan:

Q. I am not hearing you, Mr. Roach, even with the microphone on.

A. I am sorry.

It would be difficult for me to give you a sensible answer without going into a study.

Q. Well, Mr. Roach, are vessels on the average, leaving the United States today from any point to any foreign point, larger or smaller than they were in 1938?

Mr. Hanifin: Mr. Examiner, I am going to object to the question, Mr. Roach has testified about what the average load per vessel at Newport News is.

Mr. Laux has put in testimony as to what it is at New York.

That question goes beyond the scope of Mr. Roach's direct examination, and more than that, I am certain beyond the scope of his knowledge because his study has only been as to what he put in this record, and I respectfully object [fol. 1044] to the question.

Mr. Keenan: It seems to me clearly within the scope of the direct. He is talking about average loadings at page 25, average loadings and discharges.

Mr. Hanifin: At Hampton Roads and New York, if you please, Mr. Keenan. I think, if the Examiner will examine page 25, you will find that to be the case.

Mr. Keenan: Well, I merely want to find out what the transportation conditions are that characterize the operations he is referring to.

I think that to obviate further haggling on the matter, let me withdraw the last question and ask this one:

By Mr. Keenan:

Q. Have you any reason to believe that vessels are leaving the ports of Hampton Roads and New York for foreign shores with less cargo per vessel today than they were in 1938?

A. I am sorry, without making a study I would not be able to tell.

Q. When, at a given port, there is a decline in average cargo loaded per vessel doesn't this indicate either that the vessels moving off-shore have a decreasing lading capacity, or that they are taking on ladings elsewhere?

A. Well, you are going into Mr. Laux' testimony now, are you not?

Q. Mr. Roach, I am not going to anybody's testimony but [fol. 1045] yours, and I am asking you a question if you will be so kind as to address yourself to it, I will be very grateful.

A. May I have the question repeated?

Q. When at a given point there is a decline in average cargo loaded per vessel, doesn't this indicate either that vessels moving off-shore have a decreasing loading capacity, or that they are taking on ladings elsewhere?

A. Or the business was not good in that direction.

Q. I cannot hear, sir.

A. It is very difficult to answer.

Mr. Hanifin: If the Examiner please, that is testimony of Mr. Laux, if Mr. Keenan wants to cross-examine Mr. Laux, that is perfectly all right. Mr. Roach did not testify about the decrease in average tons out of Newport News. He merely restated the figures put in by Mr. Laux.

If Mr. Keenan wants to cross-examine Mr. Laux on that, I think it surely is proper, but I see no basis for asking Mr. Roach about these figures inserted by Mr. Laux.

That was simply put in there so that—

Exam. Boat: It is in his testimony.

Mr. Hanifin: He is simply making an arithmetical comparison there. I do not think he purports to go beyond Mr. Laux' testimony. He does not say why.

Mr. Keenan: I would like to inquire into the significance of that comparison, if the Examiner please.

[fol. 1046] Mr. Hanifin: I think you should ask Mr. Laux about that. He is the one who put in the facts about New York.

Mr. Roach will talk to you about Hampton Roads as long as you want.

Mr. Keenan: I am talking about the comparison Mr. Roach made between Hampton Roads and New York, and he made the comparison at page 25 of his testimony, and I should like the witness' answer to the question, if the Examiner please.

The Witness: I do not feel I could give answers to figures presented by Mr. Laux.

By Mr. Keenan:

Q. I did not ask you to give me an answer with regard to figures presented by Mr. Laux.

I wanted an answer to the question I asked you, Mr. Roach, and if there is any doubt about what it was, I will be glad to have it read to you.

I do not want any ambiguity in the record as to whether you thought I was asking something I was not. Do you want to hear the question read again?

A. No, I do not have to hear it read again.

Mr. Hanifin: Yes, his counsel does.

Mr. Macleay: I would like to hear it read again, Mr. Examiner, it has been buried under a barrage of wordage.

Exam. Boat: We are wasting a lot of time here. Will you read it, please, Mr. Reporter?

(The question was read back.)

[fol. 1047] By Mr. Keenan:

Q. If you do not know the answer to that, you can certainly say so, Mr. Roach?

A. Yes.

Q. It does mean that?

A. Yes.

Q. Yes.

Now, as you say, at page 25 of your testimony, witness Laux has pointed out that cargo loaded or discharged per vessel at New York has declined from 1700 long tons in 1938 to 1350 long tons in 1955.

This indicates, does it not, that in that interim at least 20 per cent of the cargo that used to be loaded or discharged at New York per vessel is now discharged elsewhere?

A. Something has happened to it. It is not there. Without a further study, I could not give you a better answer.

Q. Without further study, Mr. Roach, you can't give me an affirmative or negative answer to the last question?

A. I told you yes, it must have been loaded somewhere else, or the registry of the ships were smaller or something else.

Q. The 20 per cent figure, the ratio is substantially accurate, is it not?

Mr. Hanifin: If the Examiner please, let me inquire if Mr. Keenan is assuming the same volume of tonnage is moving. I think Mr. Roach is assuming that in his answer.

Mr. Keenan: Mr. Roach is having certainly good care [fol. 1048] taken of him by counsel.

Mr. Hanifin: You are asking questions that are so broad, that I frankly do not think all the assumptions inherent in your questions are apparent to the witness. I think they are unfair questions. I have objected to the Examiner before, and I am going to object again, to questions such as that where he does not say whether the same amount of tonnage is moving, or whether a smaller amount of tonnage is moving, or what are the circumstances.

Mr. Keenan: May the witness answer my question, Mr. Examiner?

Mr. Hanifin: I am going to object.

Exam. Boat: The objection is overruled.

Let him answer.

Mr. Hanifin: If the Examiner please, if you will permit me, do I understand your ruling to mean that you are

not going to ask Mr. Keenan to clarify his questions to the extent of informing the witness of whether he is or is not to assume that the same amount of tonnage is moving?

Exam. Boat: Well, it was reasonably plain to me. I do not know.

Mr. Hanifin: What was your conclusion, sir, so we can understand?

Exam. Boat: Let us have the question read.

(The question was read.)

[fol. 1049] Exam. Boat: That is of the 1700 to 1350?

Mr. Keenan: I do not think there can be much doubt about that.

By Mr. Keenan:

Q. Can there, Mr. Roach?

A. It is difficult to give an answer without knowing all the circumstances of the tonnage involved.

Q. I will let it go at that.

It is true you are assistant general manager of the World Commerce Department of the Chesapeake and Ohio Railway Company?

A. That is right.

Q. You say in your testimony at page 25 that you are attempting to arrive at figures comparable with those developed by witness Laux.

Now, in the light of what we have been discussing just now, Mr. Roach, with many interruptions, won't you agree with me that you can not arrive at a conclusion comparable to that Mr. Laux arrived at concerning erosion or on the other hand increase in trans-shipments at Hampton Roads, without a figure for 1938, at Hampton Roads, which you haven't got?

A. That is a logical conclusion. I was just pointing out the average carload loaded per ship today.

Q. In your opinion, does Port or Railroad Terminal capacity to handle import-export traffic at a given point have something to do with the volume handled, the volume [fol. 1050] of traffic that is tendered at that point for handling?

A. Yes.

Q. It is not only rate relationships, it is also capacity to handle traffic that has a bearing on the volume tendered, is that right?

A. If you want to increase your business, you have to have the capacity for it.

Q. You cannot handle any more at Hampton Roads than you have the capacity to handle, can you?

A. That is right.

Q. Is the number of pier facilities an indication of your capacity to handle traffic at Hampton Roads?

A. The number of pier facilities?

Q. Yes.

A. To an extent.

Q. Is the value of waterfront facilities an indication of your capacity to handle traffic at Hampton Roads?

A. Not necessarily.

Q. It has no bearing on the total, right?

A. It has some bearing.

Q. Some bearing?

A. Yes.

Exam. Boat: Do you mean all waterfront facilities?

Mr. Keenan: Yes, Mr. Examiner.

By Mr. Keenan:

Q. At page 25 and page 26 of your testimony, you note [fol. 1051] that New York owns 122 major pier facilities, and in the entire Hampton Roads area there are only 12 such facilities in normal use.

Is that some indication that perhaps New York has 10 times the capacity to handle traffic as Hampton Roads?

A. It indicates they are a finer port.

Q. Beg pardon?

A. It indicates they are a finer port.

Q. What indication, if any, does it give you concerning how much more traffic New York can handle than Hampton Roads?

A. Well, the piers are not lying idle in New York, I assume there are vessels here loading at them—in fact, I know there are.

Q. Well, the ratio of pier facilities in terms of their simple quantity is something like 1 to 10 between Hampton Roads and New York, is it not?

A. Yes.

Q. Now, there has been testimony introduced, or that is about to be introduced—again I am not sure which is the case—that of total differential territory traffic, New York handled 2.9 million tons and Hampton Roads handled 1.3 million tons. This I find, so that the record may be orderly, at page 3 of the verified statement of F. S. Baird, Vice President in Charge of Traffic of the Norfolk and Western. I don't know whether that is in evidence or not.

[fol. 1052] Mr. Claytor: It is.

By Mr. Keenan:

Q. Is the comparison accurate, Mr. Roach; that New York appears to be handling, according to Mr. Baird's figures, roughly twice as much differential territory traffic as Hampton Roads, and yet has in terms of the number of pier facilities, roughly 10 times as much as Hampton Roads?

Mr. Hanifin: Let Mr. Roach read the testimony if you are going to ask him to interpret Mr. Baird's testimony.

Please identify the pages for him, sir.

Mr. Keenan: It has been done, already.

Do you want me to tell you the page again?

The Witness: I would like you to tell me the page referred to, I just had this handed to me.

Mr. Hanifin: Mr. Examiner I think this is objectionable here to have the witness interpret the testimony of another witness in this case.

I seriously object to any continuation of cross-examination along this line.

Exam. Boat: Objection overruled.

Proceed.

By Mr. Keenan:

Q. Do you have the question in mind, Mr. Roach?

A. What page were you referring to?

Q. I am so sorry. I thought you knew it—that is on page No. 3.

[fol. 1053] A. Page 3?

Q. Yes.

A. May I read it?

Q. You bet.

Mr. Hanifin: Read it into the record so we will all hear it.

Exam. Boat: I do not know whether it is necessary to do that. That will clutter up the record.

Mr. Hanifin: Read the next page, also, Mr. Roach.

(Witness read.)

The Witness: Now, may I have the question read, Mr. Reporter?

(The question was read back.)

The Witness: Well, first of all, I should have to know before I could answer on Mr. Baird's testimony, just how many piers in New York were used. For example, here when you take out grain from this total figure, you come up with a pretty small general cargo business.

By Mr. Keenan:

Q. At any rate, if some piers are not being used at New York, that means that there is idle capital equipment there usable for the purpose of import-export traffic, isn't that true?

A. They could be used.

Q. It is true of Hampton Roads. If any piers at Hampton Roads are not used they represent idle capital equipment [fol. 1054] for transportation purposes, right?

Exam. Boat: If they are suitable for that particular traffic.

Mr. Keenan: Well, if the Examiner please, if the piers are not being used, they are idle, is what I meant to inquire from the witness. They do represent idle capital equipment in a transportation plant.

The Witness: I would have to know what New York

piers they had in mind, how many were used, and the nature of the piers, and so forth, before I could answer on this testimony.

Mr. Keenan: All right.

By Mr. Keenan:

Q. At page 24, you refer to an exhibit GR-12.

Exam. Boat: Do you have considerably more?

Mr. Keenan: Sir?

Exam. Boat: Do you have a considerable number of questions yet, Mr. Keenan?

Mr. Keenan: Without interruption I could finish up in 7 minutes. In the circumstances I doubt very much I will finish up in twice that time.

Mr. Welsh: Mr. Examiner, there will be some other questions besides Mr. Keenan's.

Exam. Boat: Yes, I think we might as well recess or adjourn until tomorrow morning at 10:30.

[fol. 1055] Mr. Langdon: Mr. Examiner, before adjournment, at the end of the hearing on Friday at conclusion of the testimony of Mr. Crowl, I think there was a request that Mr. Mollman return to the stand for further cross-examination by Mr. Keenan.

Mr. Keenan: In fairness, that request should be withdrawn on the record.

I withdraw that request. I do not want to leave any—

Mr. Langdon: Let the record show the request has been withdrawn.

Mr. Keenan: You bet. I understand he would have been made available if I pressed my request.

Mr. Langdon: Yes.

Exam. Boat: Very well.

We will adjourn until 10:30 tomorrow morning.

(At 4:54 p.m. the hearing was adjourned until 10:30 o'clock a.m., February 26, 1958.)

[fol. 1056]

BEFORE THE INTERSTATE COMMERCE COMMISSION

I & S Docket No. 6651

FSA Docket No. 32204

[Title omitted]

February 26, 1958

Met, pursuant to adjournment, at 10:30 a.m.

Before:

MARION L. BOAT, Examiner.

APPEARANCES:

As heretofore indicated.

[fol. 1058] PROCEEDINGS

Exam. Boat: We are ready to continue with Mr. Roach now, I believe.

Is there further cross examination?

Mr. Keenan: Yes, sir.

GEORGE ROACH a witness previously sworn, resumed his testimony further as follows:

Cross examination (continued).

By Mr. Keenan:

Q. Mr. Roach, with regard to the traffic reflected by your exhibit GR-12, please tell me whether all of that tonnage originated in differential territory?

A. Yes, sir, that did originate in differential territory.

Q. On page 33 of your verified statement you refer to New York as being the largest tonnage port.

When you do this, do you make the reference in con-

nection with all traffic, or is it confined to so-called general cargo traffic?

A. I am sure I meant to imply it is the largest tonnage port on general cargo.

Q. At page 32 of your verified statement you quote Mr. Daniel Lowe, Chairman of the New York Port Authority and you advise that the source of this quotation is a publication called "Ocean-borne Foreign Trade at the Port of New York 1956."

Have you a copy of that publication with you?

[fol. 1059] A. I believe I have.

Q. Will you look for it, please?

A. Yes. I have it here.

Q. Is that quotation taken from page 2 or 3? No, I guess it is not. It is taken from page 1, isn't it, Mr. Roach?

A. Yes, I believe that is the one.

Q. Now, on page 2 and page 3, does Mr. Lowe continue in this document to state his views concerning the Port of New York's share of the competitive market?

A. I presume this is his furtherance of his statement.

Q. Well, is there any doubt about it, when you take a look at page 5 is there any doubt about it that is a continuation of his statement, Mr. Roach?

A. I should think not. I haven't read it for some time. No, there is his signature on the end.

Q. There is no doubt about it, is there, sir?

In order that the record may be complete with regard to the views of Mr. Lowe, and you appear to have considered his views sufficiently significant that the Commission should be given the benefit of them.

Please tell the Examiner what Mr. Lowe said on page 2 of his report immediately following what you have quoted at page 32 of your verified statement?.

[fol. 1060] A. The Port of New York tonnage gains during the past year lagged behind the increases at competing ports. The port's share of the United States total ocean-borne foreign trade, general bulk cargoes, therefore declined in 1956 to 14 per cent compared to 16.6 per cent in 1955 and 19.1 per cent in 1954.

New York's declining share of United States total foreign trade tonnage was primarily attributable to the port's

limited participation in the movement of bulk cargoes that has developed since World War II as well as increasing competition from other ports.

Shall I continue?

Q. Yes, sir, I would like you to continue with the balance of that section on the port's share of the competitive market?

A. In handling of general cargo, competing ports showed greater tonnage increases than New York. This has caused New York's share of United States general cargo to decline in 1956 to 25.9 per cent from 27.6 per cent in 1955, and 28.5 per cent in 1954 compared with the 1947 to 1953 average New York competitive share had declined 8.6 per centage points. This decline in the port's share is partially from the rapid economic expansion taking place in the south and southwestern parts of the country. It is, however, also, symptomatic of the increasing competition among ports, many of which are favored with differentially lower rates—lower rail rates on export-import cargoes than apply to [fol. 1061] the New York-New Jersey port.

Q. Mr. Roach, will you turn to page 18 of the same document from which you have been reading, the document publishe by the Port of New York—page 19.

Exam. Boat: Is that in evidence in the case?

Mr. Keenan: No, sir, it is not.

Mr. Examiner, the witness introduced excerpts from this report in his oral testimony.

Exam. Boat: And you are merely rounding-out?

Mr. Keenan: I merely would like the record to reflect the other portions of the same document that are relevant to the issues.

Exam. Boat: How lengthy is that in reading?

Mr. Keenan: Pardon?

Exam. Boat: How lengthy is the matter you refer to?

Mr. Keenan: One page, Mr. Examiner. I wanted to shorten this up, if counsel would consent to an agreement authorized by the Examiner, permitting us to file in the form of late-filed exhibits material from this document and the 1955 report to which Mr. Roach referred.

Mr. Hanifin: We will file the whole document. I do not want selected materials. I would not agree to that at all.

Mr. Keenan: I have no quarrel with that, but I do not represent the port of New York and I had a great deal of trouble getting the 1955 report. That evidently is in very [fol. 1062] short supply.

I cannot have it reprinted. I suppose I could have the whole thing mimeographed if Mr. Hanifin desires. All I wanted to do was to take one or two pages which would be a relatively small stencil problem to put them in.

Exam. Boat: Is that the only material you have now?

Mr. Keenan: I will go through my notes and advise the counsel and the Examiner of that right now.

It would shorten things up if we can avoid Mr. Roach's reading this stuff.

Exam. Boat: Off the record.

(Discussion off the record.)

Exam. Boat: On the record.

By Mr. Keenan:

Q. Mr. Roach, in the middle of page 32, just before your quotation from Mr. Lowe, do you cite some tonnage figures for the year 1954, 1955 and 1956?

A. Yes, quoted from this.

Q. Are they taken from page 1 of this ocean-borne foreign trade report that we have been discussing and are they taken from a part of Mr. Lowe's statement? I invite your attention to the last three sets of figures there on the first page.

A. The first three.

Q. The first three sets, yes.

A. Yes, the first three.

Q. They are taken from Mr. Lowe's statement?

[fol. 1063] A. They look similar to me, they are identical.

Mr. Keenan: We can go back off the record again, Mr. Examiner.

Exam. Boat: Off the record.

(Discussion off the record.)

Exam. Boat: On the record.

Objection overruled.

By Mr. Keenan:

Q. Page 18, Mr. Roach, the same document we have been referring to, there is some material there concerning coastal competition, which I would like you to tell the Examiner about which comes from the same document, right?

Does it come from the same document?

A. This article referred to comes from the same document.

Q. Yes. It begins with—

Mr. Hanifin: For clarification, is the material prepared by Mr. Lowe?

Mr. Keenan: Mr. Examiner—

Exam. Boat: Let him go ahead, and then you will have your opportunity.

By Mr. Keenan:

Q. Mr. Roach, will you proceed to read the material on those two pages, 18 and 19?

A. The Port of New York is confronted with intensified competition during the year. Most of the Atlantic and Gulf ports were bidding for a greater share of foreign trade [fol. 1064] through enlarged port development and promotion programs. There are three coastal regions competing as gateways for the flow of overseas trade. They are North Atlantic, South Atlantic, and Gulf Coasts. For example, freight moving to and from the Middle West has a choice of routes. It can move down the Mississippi River by barge or travel by rail or motor truck to any number of Atlantic and Gulf ports.

The ultimate choice depends on availability of steamship sailings, adequate harbor facilities, inland carriers, specialized cargo handling facilities, banking services, and a host of other items.

The North Atlantic Coastal regions' share of total Atlantic and Gulf Coast general cargo in 1956 declined 4.1 per centage points compared to the previous year, while the Gulf Coast region posted a gain of 4 percentage points and the South Atlantic 0.1 per centage points. The shift in the competitive standing was due mainly to heavier

exports of cotton, chemicals and machinery moving through the Gulf and South Atlantic Coast and to inbound movements of cement and semi-manufactures. It is interesting to note that in its immediate competitive region the Port of New York's share of north Atlantic general cargo export and import tonnage in 1956 increased to 59.1 per cent, a rise of 0.4 percentage points over the preceding year.

Q. Now, can you read those figures?

[fol. 1065] A. They have a column of figures headed "Distribution of General Cargo shares, North Atlantic, South Atlantic and Gulf Coasts."

Export: North Atlantic, 1956, 51.1 per cent; 1955, 57.4 per centage point change; 1956 over 1955, minus 6.3 per cent.

South Atlantic, 1956: 10.3 per cent; 1955, 10.5 per cent. Percentage point change, 1956 over 1955, minus .0.2 per cent.

Gulf, 1956, 38.6 per cent; 1955, 32.1 per cent; percentage point change, 1956 over 1955, plus 6.5 per cent.

Import, North Atlantic, 1956, 64.2 per cent; 1955, 66.2 per cent. Percentage point change, 1956 over 1955, minus 2 per cent.

Imports, South Atlantic, 1956, 11.5 per cent.

1955, 10.9 per cent. Percentage point change, 1956 over 1955, plus 0.6 per cent.

Gulf, 1956, 24.3 per cent. 1955, 22.9 per cent. Percentage point change, 1956 over 1955, plus 1.4 per cent.

Export and import, North Atlantic 1956—

Exam. Boat: I do not think it is necessary to read those. Those can be computed from the figures you have in there.

Mr. Keenan: All right. That is correct, Mr. Examiner. I will go ahead.

By Mr. Keenan:

Q. Would you just give the percentage point change as [fol. 1066] 3 figures for export-import together?

A. All right.

North Atlantic—this is export and import. North Atlan-

tic, percentage point change 1956 over 1955, minus 4.1 per cent. South Atlantic percentage point change, 1956 over 1955, plus 0.1 per cent.

Gulf—

Exam. Boat: Just give the figure.

The Witness: Plus 4 per cent.

Exam. Boat: All right.

By Mr. Keenan:

Q. Again at page 19 of your verified statement, you quote from the annual report for 1955 of the Port of New York authority from page 6 of that document.

There is a paragraph, a rather short one immediately following the one from which you quoted.

Will you read that, please?

A. Paragraph which?

Q. Paragraph in the document from which you quote, immediately following the paragraph which you do quote. Will you read it, please?

A. Starting "The comparative tonnages"—

Q. No, the paragraph I have reference to starts with "The Port of New York's share"—do you have the document with you, the 1955 report?

A. No, I do not have the 1955, I have the 1956. That is [fol. 1067] the one I was reading from.

Q. Have you ever seen the 1955 report?

A. I believe that is the one I quoted from.

Q. Have you seen it?

A. Yes, I am sure I have seen it.

Q. Do you recognize it?

A. Yes.

Q. Would you look at page 6 there and see if there is not a paragraph following the one you quoted from at the bottom of the page?

Exam. Boat: How long is that?

Mr. Keenan: About as long as the one he has quoted.

The Witness: I quoted on iron and steel.

By Mr. Keenan:

Q. "The single most commodity"—are the words beginning there.

A. Oh, yes.

Mr. Hanifin: We would like to read it if the Examiner please.

Mr. Keenan: Just a minute, Mr. Examiner. I am asking the witness about a document he has identified, some material immediately following what he has got in there.

If counsel wants to object to the question, fine. You do not think the question is objectionable. If counsel wants to move to strike the witness' answer in the ordinary course of business, fine. I would like the witness to proceed to [fol. 1068] answer the question right now.

Exam. Boat: I think they may see the document.

Mr. Hanifin: How do we know whether it is relevant or not until we have seen what it contains?

Exam. Boat: They may have seen it before, but they should have it before them now.

(The document is viewed by counsel.)

The Witness: This is the paragraph following the one I quoted—

Mr. Hanifin: The one before.

The Witness: The one preceding it?

Mr. Keenan: Mr. Examiner, may Mr. Hanifin deal with his witness on redirect when I have finished with him?

Mr. Hanifin: I am trying to assist in getting the right sentence.

Exam. Boat: Off the record.

(Discussion off the record.)

Exam. Boat: On the record.

By Mr. Keenan:

Q. The one following, Mr. Roach, if you please.

A. The one following.

Q. Right.

A. The Port of New York's share of United States gen-

eral cargo imports was 28.6 per cent in 1955. This was a decline of 1.4 percentage points compared to 1954 and a decline from the 35.4 per cent share handled during the period 1947 to 1953.

[fol. 1069] The decline can be attributed in part to development and expansion of new industries in other sections of the country.

Q. At page 9 of the same document there are some figures on the iron and steel to which you referred in your quotation at page 19, or rather, there are some graphical representations.

A. Yes, sir.

Q. Will you describe those graphical representations, Mr. Roach?

Exam. Boat: May I see it, please?

The Witness: Yes.

Exam. Boat: Off the record.

(Discussion was off the record.)

Exam. Boat: Back on the record.

You may continue.

By Mr. Keenan:

Q. There is, on page 9 there, a graphical representation concerning iron and steel, isn't there, in that document from which you quote, Mr. Roach?

A. Yes, sir.

Q. Will you describe it, please?

A. On iron and steel it shows in one column a graph indicating the volume in long tons by hundreds of thousands of long tons for the years 1953—

Exam. Boat: Just state the figure there.

The Witness: 53.

By Mr. Keenan:

Q. Approximately?

[fol. 1070] A. It does not have any figures. It is indicated by a graph, and it is 'way less than 200,000 tons. That is for volume.

And then over on the right it has a share of U.S. in per cent, which of course is a small graph indicating that it is way less than 20 per cent.

1954—

Exam. Boat: Volume?

The Witness: I am sorry, this is iron and steel scrap. I am reading the wrong one. I will go back to iron and steel products.

Exam. Boat: Isn't the first figure 9?

The Witness: The first figure would be about 9, yes.

Exam. Boat: Just state the year and the number following.

The Witness: The year, 1953, about 900,000 tons and the percentage would be about 45 per cent.

By Mr. Keenan:

Q. Percentage of what?

A. Percentage share of U.S.

Exam. Boat: Now 1954?

The Witness: 1954 would be about 800,000 tons in volume, and share of U.S. in per cent would be about 41 per cent.

In 1955 volume would be about 100,000 tons—

Exam. Boat: It is the biggest one. Off the record.

(Discussion was off the record.)

Exam. Boat: On the record.

[fol. 1071] The Witness: That would be about a million tons.

And the share of United States in per cent is about 35 per cent.

By Mr. Keenan:

Q. Of all the major general cargo exports dealt with on the page to which you have just been referring, is iron and steel products the largest for 1953 and 1954? In terms of volume in long tons?

A. It does not appear to be, no. It appears to be iron and steel scrap.

Q. For 1953 and 1954?

A. 1953 and 1954, only.

Q. Yes.

A. Well, yes, I would say so.

Q. And in 1955, do iron and steel products appear to be exceeded only by iron and steel scrap?

A. Yes.

Q. That is correct?

A. Yes, sir.

Q. What is the order of magnitude by which iron and steel products during 1953 and 1954 exceeded all other, about 3 or 4 times?

A. I would say so, yes, sir.

Q. All right.

At page 14 you refer to a traffic study reflected in your exhibit GR-6.

[fol. 1072] At page 15 you conclude from this traffic study that total cars exported through Hampton Roads during 1956 are 22,742.

Are these 22,742 cars all the cars that Hampton Roads lines originated in differential territory during the period in question?

A. That is my understanding, yes.

Q. What is the differential territory to which reference is had?

What is the eastern boundary of it in connection with this study?

A. It would be the Sandusky, Mansfield, Newark, Marietta line.

Q. Of this 22,742 cars, do you know how many were originated by the C & O?

A. Yes, I have that somewhere in my exhibit, just the one to Newport News.

I only have a tabulation of those to Newport News.

Q. Just those to Newport News?

A. Yes, I have a record of that somewhere.

Q. Have you any information as to what portion of these 22—I withdraw that last—

You have no information whatsoever as to what the total number originated by the C & O was, right?

A. Through Newport News?

[fol. 1073] Q. Through any port?

A. Through New York I have.

Q. Yes, but—

A. I do—I got it through Newport News as well.

Q. But you do not know during this period what the total originations of differential territory export traffic were by the C & O.

A. To what port, sir?

Q. Any port.

A. New York, Philadelphia, Baltimore?

Q. To all ports, Mr. Roach?

A. I have the tabulation showing the number of cars the Chesapeake & Ohio originated in the affected territory.

Q. During the period in question in this study?

A. During the period of question in this study, to New York, as well as Newport News.

Q. But not any other port except New York and Newport News?

A. Just the New York and Newport News.

Q. That supplies the answer to the next question I wanted to ask you, which was, do you have any information as to what portion of these cars went through Baltimore and Philadelphia. I guess your answer is no?

A. I am sorry. I have not tabulated that.

Q. How did you acquire the information for this study in exhibit GR-6? You sent some instructions out to the field?

[fol. 1074] A. No, we have a traffic system of preparing our tonnage reports that just peculiarly fit into the information I needed for this exhibit.

We have a system that the managers of our area offices covering the entire CFA territory, affected territory, prepare each month, a tonnage report, that indicates the number of cars, the name of the shipper, the commodity, full route, name of consignee, and the port destination. That is supplied to us once a month. In fact, I started the system myself when I reached Chicago in 1947, and it has been particularly helpful in this case.

Q. These records are then kept after they have thus been compiled—they are kept in your office or in the headquarters portion of the C & O's establishment that you supervise, is that right, Mr. Roach?

A. That is right.

Q. Then you could have easily laid your hands on it—you could get it readily; I assume, on the amount of this differential territory traffic originated by the C & O that moved through the Ports of Baltimore and Philadelphia?

A. Yes, I think we could make such a tabulation.

Q. In the circumstances, you are responsible yourself for selecting what material you took from the files in preparing this study which is submitted in GR-6, right?

A. Yes.

[fol. 1075] Q. Have you any similar information concerning imports—information similar to that set forth in GR-6?

A. No, I did not make any particular tabulation on imports. Do you want me to explain why?

Q. I think you are entitled to explain why. Will you tell me first of all whether the information concerning imports is as easy to come by as is evidently the information concerning exports?

A. I think it may be.

Q. You may go ahead if you desire and tell us why you did not.

A. The reason I did not do it is our import traffic is the bulk traffic—bulk ores. We do not do very much general cargo import traffic through Newport News. It is of no significance whatsoever. It would be very little general cargo import traffic to CFA territory.

Q. How did you acquire your information concerning the 1007 overhead cars referred to at pages 16 and 17 of your verified statement?

A. I would say they came from our tonnage reports furnished us by these area managers in differential territory.

Q. The same way as the other stuff did?

A. Yes, sir.

Q. Again, then, you have in your files information on the total number of cars handled by the C & O in overhead movement which originated in differential territory, do you not?

[fol. 1076] A. Yes.

Q. But this 1,007 is not that total figure, is it?

A. No.

This 1,007 specifically is that which I believe went to Newport News, if I am not mistaken—no, it went to New York, that 1007 cars.

Q. And nowhere in your testimony is that total overhead movement of cars originated in differential territory disclosed, is it?

A. To where, sir?

Q. Differential export traffic through any port?

A. None other than New York.

Q. Somewhere in the testimony of some witness there is a comparison—maybe it is yours—of real estate values at the Port, or waterfront property values at the Port of New York and Hampton Roads, I forget what the figures are, but there is a great discrepancy. Do you recall that?

A. Yes, I believe I submitted some testimony about the evaluation of the Newport News pier properties.

Q. And corresponding testimony to the general effect that the property at New York is worth a great deal more?

A. I believe so, yes.

Q. Would you agree with me, just in the interest of accuracy, that when comparing values of real estate it is important to bear in mind the alternative uses to which the [fol. 1077] real estate can be put?

If that question is not clear, I can specify a little better.

A. I should like you to clarify the question.

Q. For example, isn't it true real estate in Manhattan tends to be worth more than real estate in Norfolk because there are other very profitable uses to which land can be put in Manhattan beside the use for pier areas or transportation purposes?

A. First of all, I should like to confine my testimony to Newport News, rather than Norfolk, because that is our pier properties.

Q. Sure.

A. Secondly, I do not think that is an area in which I am qualified to answer.

Q. Then it would be correct, wouldn't it, you would not tell us the significance of comparisons of waterfront property values in the two ports until you had been thus qualified, right?

A. No, I wanted to find out, I wanted to indicate in my testimony the value of Newport News properties as against the chief competition I have.

Q. When an import consignment arrives at Hampton Roads, will the railroad hold it in storage until the ocean [fol. 1078] receiver orders it shipped out to the interior, and will the railroad provide this service without a loading and unloading charge?

A. Well, it would not necessarily be the ocean receiver, I mean the shipper or the consignee, whoever would order it to be shipped to the interior, you are talking about import traffic now?

Q. Yes.

A. We would hold it on our piers for the free time period, and then we would load it in to cars and ship it out on instructions to the consignees.

Q. Is there a firm named Hidden?

A. No, Hiden.

Q. Hiden?

A. Yes,

Q. What is the full name?

A. The full name is Hiden Storage Forwarding Company.

Q. Is that affiliated in any way with the C & O Railroad?

A. It is a private organization. It is on our property, outside our pier properties in Newport News. It is a private organization.

Q. You do not know of any stock connection or affiliation between this organization and the C & O?

A. No, sir, I do not.

Q. Does it lease its properties from the C & O?

A. I believe it does lease properties from the C & O.

[fol 1079] Q. Does Hiden act as a terminal agent for the C & O Railroad to perform any transportation or storage services that the C & O holds itself out to the public to render in the C & O's tariffs?

A. I would say not. Any traffic that goes into the Hiden facility storage, they perform their own service.

Q. And they collect their own charges and the C & O has nothing to do with it?

A. They collect their own storage charge, that is right, sir.

Q. Do they load rail car for rail patrons?

A. When the traffic moves out of their facility?

Q. Does Hiden do so?

A. Yes, they do.

Q. Is this a transportation service which Hiden performs for the C & O for the—

A. No, for the patron. I presume his cost of loading, if that is what you are trying to get at, is covered by his storage and handling charges which he pays to Hiden.

Q. Whielf he pays directly to Hiden?

A. The railway has nothing to do with it, it is merely a storage-in-transit situation.

Q. Yes.

When a shipper is financing a transaction for the purpose of consummating, and when he tenders his consignment to [fol. 1080] an ocean carrier at Hampton Roads and gets an on-board bill of lading, is there any doubt that he is paid as soon as he presents the on-board bill of lading at the bank?

A. I would say there is no doubt involved, but I should like to clear up that transaction.

There are very few ocean bills of lading signed in Newport News—very few.

It is only rare that the steamship will allow their branch offices in Hampton Roads to sign on-board ocean bills of lading.

Q. How do you know, Mr. Roach?

A. I have had this experience, sir.

Q. How do you know, sir?

A. By personal knowledge. I have tried to do this in so far as Newport News is concerned, I have tried to accomplish such a thing. The best we could accomplish is that the steamship agent at Newport News would wire his New York Office the returns of the cargo, indicating it was on-board free of exceptions or otherwise, and New York office would then sign the ocean bill of lading.

But very few instances I have been able to accomplish ocean bill of lading.

Exam. Boat: Does that complete the cross?

Mr. Brandes: I would like to examine the witness briefly, please.

[fol. 1081] Cross examination.

By Mr. Brandes:

Q. Mr. Roach, you testified yesterday with respect to the alleged subsidy which the railroads received in the Port of New York, did you not?

A. I did not mean to indicate that the railroads received it, although I do understand that there are some railroad piers going to be built in New York, but I am sure I did not mean to indicate that. What I meant to indicate was as far as I knew the steamship piers were being subsidized in the Port of New York.

Q. Steamship piers?

A. Steamship piers, I am sorry if I led you to believe otherwise.

Q. You said, as far as you know; are you acquainted with the basis upon which steamship piers are made available to steamship companies in the Port of New York, of your own knowledge?

A. No, sir, only by what I have read in the newspapers. I have a very pertinent article right here, I had it with me yesterday.

Q. Would it be fair to say you know nothing about the formula for assessing the rent on steamship piers in the Port of New York?

A. Not personal knowledge, no, except what I read in the papers.

[fol. 1082] Mr. Brandes: That is all.

Just a minute. I have another line of inquiry, if I may.

By Mr. Brandes:

Q. Mr. Roach, is it your basic position that the differential in favor of Norfolk is necessary in order to offset better service and more frequent sailings in the Port of New York?

A. The differential via Newport News and Norfolk?

Q. Yes, that is your position?

A. They definitely need it to offset the advantages of the Port of New York.

Q. That the railroads serving the ports in the North Atlantic tier compete with one another for traffic?

A. Yes.

Q. And you say that the sailings in the ports that the railroads serve affect their ability to compete, do you not?

A. Yes, they do.

Q. Now, assume for a moment that one port has in excess of 1,000 more sailings a year as compared with another port. That would be a substantial handicap to the port with the lesser sailings, would it not?

A. I would say so, yes.

Q. And if the amount of services in that port, with the greater number of sailings, was generally at least equal to the other services rendered in the Port with the lesser sailings, is it your position that a differential would be [fol. 1083] required in favor of the Port with the lesser sailings?

A. I am awfully sorry, that question is awfully involved. You lost me, I am sorry.

Q. Very well.

Mr. Brandes: Mr. Stenographer, will you read the question? See if you understand it; if you do not, I will try to rephrase it.

The Witness: I will try.

(The pending question was read back.)

The Witness: I am sorry, that question is not clear to me.

By Mr. Brandes:

Q. If it is not clear, let me rephrase it.

A. I am sorry; it is not clear, sir.

Exam. Boat: Off the record.

(Discussion was off the record.)

Exam. Boat: On the record.

By Mr. Brandes:

Q. Assume that there are equal services of another nature such as banking and foreign freight agents at two ports, but substantially different number of sailings.

Is it your position that a differential is required in connection with the port or the railroads serving the port with the fewer sailings?

A. I am sorry, I cannot get it clear in my mind what your [fol. 1084] question is.

Q. Very well, I will try to become specific.

Would you say the services available in Baltimore, aside from sailings, are equal or better generally speaking than the services available in Norfolk?

A. The steamship services?

Q. Other than steamship services.

A. Other than steamship services? You want me to tell you about whether they are equal to or better than Hampton Roads?

Q. Yes, sir.

A. I would say this, to an extent that they are slightly better than Hampton Roads, specifically they have certain sailings that I do not have.

Q. I have asked you to address yourself to the services other than sailings, Mr. Roach.

A. I have not found too many particular services at Baltimore in competition with my own port.

Q. Are there more banks of greater financial strength at Baltimore than there are in Newport News?

A. I assume so, sir, but I have not studied that for a definite reason.

Q. And Norfolk?

A. There should be more banks in Norfolk as well.

Q. Are there more banks in Baltimore than there are in [fol. 1085] Hampton Roads, and of greater financial strength?

A. I would say so.

Q. Would it be to the advantage of your railroad to have a differential in Newport News under Baltimore?

A. Be an advantage?

Q. Yes.

A. I suppose I would be crazy if I said no.

Q. Do you know the number of sailings that leave your port as compared to Baltimore?

A. We watch those fairly closely, sir, yes, and we also watch the sailings out of Baltimore.

Q. Do you know witness Hamill's exhibit discloses that on the basis that he prepared his exhibit there are approximately 1200 sailings more from Baltimore than there are from your port?

A. Well, I had not had time to study that at all. My own survey—

Q. Well, will you assume that that is mathematically correct?

A. 1200 seems like an awful lot, but I am willing to assume it if someone has—

Q. If that is the fact, will you tell me why your railroad does not believe—would it be your opinion under those circumstances your railroad is entitled to a differential under the railroads serving Baltimore?

A. I should not like to make any opinion on that. To my [fol. 1086] knowledge no such issue is in the case and I would not want to venture an opinion without a lot of study.

Mr. Keenan: Maybe it would be better in a different case.

Mr. Brandes: All right.

That is all that I have.

Exam. Boat: Any further cross?

Mr. Foley: Yes.

Cross examination.

By Mr. Foley:

Q. Do you know whether most of the coal exports are financed in New York?

A. No, sir, I do not know.

Q. You do not know?

A. I do not know, really. My department has nothing to do with export of coal.

Q. May that be the reason why the bills of lading are issued after clearance at the port?

A. I did not mean to say that. I was talking about berth steamship lines. I did not mean to deal with coal in any respect whatsoever.

Exam. Boat: Is there any further cross?

(No response.)

Exam. Boat: Any redirect?
Mr. Hanifin: I have one question.

[fol. 1087] Redirect examination.

By Mr. Hanifin:

Q. Mr. Roach, has it been reliably reported in a responsible New York Paper that certain interests in this proceeding have charged that certain subsidies or subsidizations are taking place in connection with New York Pier facilities in the City of New York?

Mr. Welsh: Objection, Mr. Examiner.

Mr. Hanifin: You understand, if the Examiner please, Mr. Clark, who is on the side of these gentlemen who are going to object, he had a newspaper article which he was permitted to inquire about with the witness on our side.

What is sauce for the goose is sauce for the gander. I think if Mr. Clark is entitled to ask questions concerning what is reported in a newspaper of our witness, we are entitled to ask the same type of question.

That is all I am going to have to say about it.

Mr. Welsh: I do not know whether there was an exception made at the time, but I certainly make an exception against this type of hearsay testimony. We certainly have not gotten into the position in these cases where we are trying these cases in the public press, as far as I know.

Exam. Boat: I do not think it has any value. The objection is sustained. Is there anything further?

Mr. Hanifin: Did you sustain the objection?

Exam. Boat: Yes, it is newsprint in a newspaper.

[fol. 1088] Mr. Hanifin: If I might permit the observation, sir, Mr. Clark was permitted to cross-examine along the same line.

Mr. Brandes: One moment, Mr. Clark was permitted—

Exam. Boat: I have ruled.

Never mind.

Mr. Hanifin: No further redirect.

OFFER IN EVIDENCE

I would like to offer in evidence exhibit 69.

Exam. Boat: The exhibit as previously identified will be received in evidence.

(Exhibit No. 69 in Support of Protestants, Witness Roach was received in evidence.)

Exam. Boat: You are excused, Mr. Roach.

The Witness: Thank you.

(Witness excused.)

Exam. Boat: Call your next witness.

Mr. Hanifin: Mr. Sawyer.

W. C. SAWYER was sworn and testified as follows:

Direct examination.

By Mr. Claytor:

Q. You are W. C. Sawyer?

A. Yes, sir.

Mr. Claytor: May the verified statement of Mr. W. C. Sawyer with accompanying exhibits be identified?

[fol. 1089] Exam. Boat: That is Exhibit 87.

(Exhibit No. 87, Witness Sawyer, in support of Protestants is marked for identification.)

Mr. Claytor: May the record show I hand a signed copy of verified statement, Exhibit 87, to the reporter?

Mr. Examiner, I would like to ask Mr. Sawyer two questions concerning tonnage via the Baltimore Steam Packet Company that Mr. Keenan raised on cross examination of Mr. Kelly, just to clear this up.

By Mr. Sawyer:

Q. Can you give us any general idea of whether or not there is a substantial tonnage movement from Baltimore, via the Baltimore Steam Packet Company, to Norfolk, thence to Central Territory, of import and export traffic?

Mr. Keenan: Before you go ahead, Mr. Examiner, you plan to talk to Mr. Sawyer a little bit about the Baltimore Steam Packet Co. and I do not see why in the ordinary course of events I may not cross examine him.

Mr. Claytor: I will withdraw the question. I just wanted the record to be complete. We are here to help the commission, Mr. Keenan, not to fight each other.

The witness is tendered for cross-examination.

Exam. Boat: Proceed to the cross examination.

Cross examination.

By Mr. Keenan:

Q. At page 3 of your testimony, Mr. Sawyer, you advise [fol. 1090] us that the C & O serves Norfolk by means of a car float from its terminal at Newport News, Virginia.

What is the mileage involved in that car float?

A. I do not know exactly.

Q. Approximately, Mr. Sawyer.

A. I would say around 8 miles.

Q. What is your job as foreign freight traffic manager, Mr. Sawyer?

A. My specific responsibility is the development of foreign commerce through the Port of Norfolk, for movement of course in connection with our rails.

Q. Were your duties the same as those you have just described, in 1953?

A. Yes, they were in 1953.

Q. Now, in 1954, you said, haven't you, that the management of the Norfolk and Western's foreign freight traffic was shifted from New York to Norfolk, right?

A. That is correct.

Q. Why was this move made?

A. Well, it was due to the fact that I was trying to control the situation at Norfolk by remote control from New York and I was just running myself to death moving myself back and forth between the two ports.

Q. Mr. Sawyer, please confirm whether it is a fact that the Norfolk and Western, before the second world war, de- [fol. 1091] pended very largely in securing freight from

port cities and hinterland area on a feeder service of the Merchants and Miners' Transportation Company from Boston and Providence, the Eastern Steamship Lines from New York, the Philadelphia and Norfolk Steamship Company from Philadelphia, the Chesapeake Steamship Company, and the Baltimore Steam Packet Company from Baltimore?

A. You are now speaking of foreign commerce?

Q. I do not mean to confine my question to foreign commerce, Mr. Sawyer.

Mr. Claytor: Mr. Examiner, I will have to object to the question if it does not relate to some issue in this case.

Mr. Keenan: Well, it includes all commerce, and hence it certainly includes foreign commerce. I am merely trying to figure out at the moment—I withdraw that comment.

May the witness answer the question?

Mr. Claytor: If the objection is overruled.

Exam. Boat: Overruled.

He may answer.

The Witness: I had nothing to do with the solicitation of water and rail traffic, I never have. And so far as I am aware the amount of import and export traffic that moved in connection with those services was insignificant.

By Mr. Keenan:

Q. Regardless of what your functions were, Mr. Sawyer, what I asked you was whether it was a fact within your [fol. 1092] knowledge that the Norfolk and Western depended on these water carrier feeder services in order to obtain traffic?

A. Oh, the answer is definitely no, very much so, definitely no.

Q. They had no joint arrangement—the Norfolk and Western had no joint arrangements then with these water carriers for the movement?

A. Yes, they had joint arrangements, but that was not the sole basis of the traffic moving through Norfolk.

Q. Of course, I see the reason for the answer to the question.

However, they did secure traffic through these sources, right?

A. Oh, sure.

Q. Each one of the steamship companies I have talked about?

A. Right.

Q. That traffic could be both domestic traffic and import traffic?

A. That is right.

Q. And domestic traffic and export traffic, right?

A. That is right.

Q. Now, these steamship lines observed joint rates with your company to the west or CFA territory on a differential basis under the standard all-rail rates, isn't that right?

A. Yes.

[fol. 1093] Q. And by virtue of these rates the Norfolk and Western, with its connections, was able to handle import freight, among other things, on a lower level than the standard all-rail rates from Baltimore and even from Norfolk, Virginia, right?

A. I think that is correct, yes, sir.

Q. And of these steamship companies, the Baltimore Steam Packet Company is still in business, isn't it, in Baltimore?

A. Yes, sir.

Q. Tell me whether the standard differential on the Baltimore Steam Packet company routing from Baltimore via Norfolk to CFA, under the standard all-rail rate from Baltimore on first-class traffic is 8 cents a hundredweight?

A. I really could not tell you.

Q. If I go on through to 5th class, again your answer is, you do not know, right?

A. That is correct. I would have to accept your statement, sir.

Q. Pardon?

A. I would have to accept your figures.

Q. I would not ask you to do that. We cannot put evidence in the record because you believe me.

You have already told me you know there is a differential but you do not know exactly what it is.

A. No, sir. I am not familiar with it.

[fol. 1094] Q. Isn't it a fact this route via the Baltimore Steam Packet Co. offers your railroad daily hundreds of tons of freight imported through Baltimore consisting of such commodities as sugar, coffee, and tanning extracts?

A. I cannot identify those commodities specifically. I do know that coffee is one of them. I cannot tell you about sugar. Extract, I cannot tell you about that.

Q. Aren't there numerous heavy-loading commodities that move via this route?

A. They are not numerous, no, sir.

Q. Aren't they heavy-loading?

A. Not in every instance. There are some that is.

Q. They are predominantly heavy-loading, are they not, in order to be appropriate for movement via this route?

A. You are asking me something, sir, that I am not familiar with because that type of traffic does not come under my jurisdiction.

Q. It is quite clear, isn't it, that fourth section relief is necessary in order to maintain this differential route?

A. I would assume so, but I cannot say so.

Q. Mr. Sawyer, there is not any shadow of doubt in the world about it, is there?

A. I would assume—I am not a rate man.

Q. You are not a rate man?

A. No, sir.

[fol. 1095] That is right I am not a rate man.

Mr. Keenan: No further questions.

Exam. Boat: Mr. Moerman?

Mr. Moerman: Yes.

Cross examination.

By Mr. Moerman:

Q. Mr. Sawyer, attached to Exhibit 87, is a map of the Norfolk Harbor. Would you look at it a moment, please?

A. Yes.

Q. This map does not show Newport News. Would you indicate in what direction generally Newport News is?

A. It would be to the northwest, sir.

Q. Northwest?

A. Yes—in the upper lefthand corner.

Q. As indicated, you stated that the C & O serves Norfolk by means of a car float?

A. Yes, sir.

Q. From its terminal at Newport News?

A. Yes, sir.

Q. Would you spot for me on this map, please, the float bridge?

A. The float bridge, yes, sir.

If you will go directly to the top, sir, you come down—these first piers you see here, are the Virginia Railway Coal piers.

[fol. 1096] Then these are the Norfolk and Western Sewell Point Piers.

Exam. Boat: Off the record.

(Discussion off the record.)

Exam. Boat: On the record.

You are looking at the large map?

The Witness: Yes, sir. Directly south of what we term our Sewell's point piers, which is the second red block there.

By Mr. Moerman:

Q. Yes, sir.

A. You see a small thing that looks like a star or asterisk.

Exam. Boat: Right on the shoreline.

The Witness: Yes, sir.

That is known as the Norfolk and Portsmouth Belt Line, C & O float bridge.

By Mr. Moerman:

Q. Does it have a red track running off it?

A. Yes, sir, it has a red track running off it.

Q. It has two small points, has it not?

A. Yes, sir.

Q. How many car floats does your company have?

A. We have no marine equipment whatsoever.

Q. And the C & O has all of the marine equipment?

A. They have marine equipment.

Q. Did you answer before that you did not know what the distance is between the two float bridges?

[fol. 1097] A. I said approximately to my best guess, about 8 miles across there.

Mr. Moerman: All right, sir.

Thank you. That is all I wanted to know.

Exam. Boat: Is there further cross?

Is there—redirect?

Redirect examination.

By Mr. Claytor:

Q. Mr. Sawyer, can you give us any ideas as to the extent, if any, which the C & O car-ferries or car-floats are used in handling import and export traffic?

A. Not to the Norfolk side of the river; not the car floats, sir.

Q. The car floats are not used?

A. They are not used because the Chesapeake & Ohio Railway will not absorb the wharfage and handling charges of the Norfolk Terminals.

Q. Do I understand you correctly, then, that the C & O car floats are used in domestic traffic, only local traffic to Norfolk?

A. Principally—almost exclusively.

Q. Mr. Keenan mentioned a number of coastwise water carriers.

Which of those carriers are still in business?

A. Only the Baltimore Steam Packet Company.

[fol. 1098] Q. Could you give us some idea of the number of vessels and type of vessels operated by the Baltimore Steam Packet Company?

A. Well, they are—I do not think now there are more than two or possibly three of them that are in shape to operate.

They are exceptionally old. They are passenger-cargo vessels, that is really what they are—they carry passengers in addition to cargo.

Q. Do you know how many operate in the service between Baltimore and Norfolk?

A. I think they have two now. They operate daily, except Saturdays and Sundays.

Q. Mr. Sawyer, can you give us any general indication of the volume of traffic which moves via the Baltimore Steam Packet Company, import and export traffic, that is, to Central Territory?

Mr. Keenan: Well now, just one minute. I did inquire from the witness in the course of cross-examination about the amount of traffic that was moving in certain types of commodities, and he said, gee, he could not tell me. I do object strongly, Mr. Examiner, to the witness telling me he does not know enough about it because he has not made a study of the matter right recently, and then when counsel asks him on the same topic, in the same way, the witness is prepared to tell counsel on redirect the story.

[fol. 1099] I think either we ought to go back to cross and Mr. Sawyer ought to tell me what he knows on this, or he should not discuss it on redirect examination.

Mr. Claytor: Evidently Mr. Keenan is very keen on keeping facts out of the record.

Mr. Examiner, he asked about—

Mr. Keenan: Mr. Examiner—

Exam. Boat: Just a minute.

Mr. Claytor: He asked about certain specific commodities, and he gave an answer as to those commodities. I have asked about tonnage movements of all commodities via the Baltimore Steam Packet Company and Norfolk, to Central Territory, import and export traffic, that is, and I am entitled to ask that on redirect.

Exam. Boat: Objection overruled.

By Mr. Claytor:

Q. Can you answer that question, Mr. Sawyer?

A. Yes, sir.

There is no export movement whatsoever from Central Territory through Norfolk to Baltimore in connection with the Bay Line.

There is an insignificant amount of import-traffic to Baltimore. It runs very light. You want to know the commodities?

Q. Could you give us a general idea of the number of cars in an average month, if you have any such figure?

[fol. 1100] A. Yes, it will run—it seldom will exceed 45 cars and it will drop down to as much as 13, 10, 12 or 14 cars.

Q. Per month that is?

A. Per month, I beg your pardon—per month.

Exam. Boat: Are there further questions?

Mr. Claytor: No further questions.

Mr. Keenan: Can we have just 30 seconds?

(Counsel confer.)

Recross examination.

By Mr. Keenan:

Q. How recently have you—I withdraw that.

With regard to what period have you given your observations as to the monthly movement of cars via this differential route, Mr. Sawyer?

A. I had in mind June, 1957, there was 45 cars, in that month, and 20 of those were non-recurring movements.

Q. 45 cars via what railroad?

A. That was Bay Line—Norfolk, Norfolk and Western to the West.

Q. Therefore what you just testified about, if I understand you correctly, is solely the traffic via this route that has moved via the Norfolk and Western?

A. Yes, sir.

Q. You don't know whether The Virginian, the Pennsylvania, or the C & O, or any other railroad that served Hampton Roads carried some more traffic via this route, right?

[fol. 1101] A. No. I would not have that information.

Q. You said these figures you just gave were for the month of June, as I recall them?

A. That was June, 1957, and in January, 1958, the total number of cars that we handled was 13.

Q. Is what?

A. 13.

Q. Have you had occasion, perhaps last night, or something like that, or in the last two or three days, to look these figures up, Mr. Sawyer?

A. Yes, I looked these figures up in Norfolk last week.

Q. Frankly you looked them up because in the course of previous examination this matter of the Baltimore Steam Packet Company came up, didn't you, sir?

A. I looked them up, yes.

Q. Yes.

You looked them up evidently for June and for January, right?

A. I selected those months myself.

Q. Yes. Did you happen to look them up for any other month?

A. No.

Q. How did you happen to skip from one to the other, how did you happen to skip June to January, because it is a 6-month interval?

A. Well, yes, it is a representative period, a summer [fol. 1102] month and a winter month.

Q. How long did it take you to look up the month of June?

A. About half an hour.

Q. About 10 minutes.

A. No, I think it was longer than that, it was about a half hour. I had to examine the bills.

Q. There are not very many to examine, are there?

A. You have to go through the domestic traffic, separate the domestic from the import traffic.

Q. Yes.

A. To take out the cars.

Q. Yes.

Have you got the underlying documents with you on which this traffic study which you have just referred to was based?

A. Yes.

Q. Now, did you confine your study to import traffic moving to differential territory?

A. No, I just took off all import cars that we handled.

Q. Yes, you took off only import cars, you did not take off domestic cars, did you, Mr. Sawyer?

A. No, sir.

Q. Do you have any recollection as to how many domestic cars there are, I am not asking you how many there are—you do not even remember that, do you?

A. Personally I have no recollection. I did not do this, [fol. 1103] I had one of the boys go over it.

Q. Certainly.

Your instructions were to confine themselves to import tonnage, were they not?

A. Yes.

Q. Did you instruct them to look at the import—the export tonnage, too?

A. Yes, sir.

Q. You have no idea how much export tonnage per year you have via this route, do you?

A. No, sir, I do not.

Q. I will withdraw that.

Mr. Keenan: That is all.

Further redirect examination.

By Mr. Claytor:

Q. Mr. Sawyer, do you know whether or not the C & O participates in these joint through rates with the Baltimore Steam Packet Co.?

Mr. Keenan: With who?

Mr. Claytor: With the Baltimore Steam Packet Company.

Mr. Keenan: I did not hear the first part, whether who participates?

Mr. Claytor: The C & O Railway Company.

Mr. Keenan: O.K.

By Mr. Claytor:

Q. Do you know, sir?

A. I really do not know.

[fol. 1104] Q. Do you know whether or not the Virginian participates?

A. The Virginian does not, I do know that.

Q. So there can be no traffic moving via the Virginian on Joint through rates with the Baltimore Steam Packet?

A. That is correct.

Q. How about the Pennsylvania Railroad?

A. No, because they are operating in the opposite direction. They operate north.

Q. Do you know of any line besides the Norfolk and Western which participates in these joint through rates?

A. Yes.

Q. What line?

A. The Seaboard and the Southern.

Q. The Seaboard Airline and the Southern Railway?

A. Yes.

Q. Are either the Seaboard Airline or the Southern Railway Company important factors in the transportation of import and export traffic to and from Norfolk?

A. They are not.

Mr. Claytor: That is all I have.

Mr. Colgren: I have one more question if the Examiner please.

Exam. Boat: Very well.

Further recross examination.

By Mr. Colgren:

Q. Mr. Sawyer, if it took 45 minutes to separate the [fol. 1105] Jung shipments that we are speaking of, does that indicate a substantial amount of domestic traffic moving over this route?

A. The domestic is the preponderance of that movement.

Mr. Colgren: Thank you very much.

That is all.

Mr. Hanifin: Mr. Examiner, I wonder if other counsel would be willing to let me make a statement on the record that the C & O has no routes in connection with the Baltimore Steam Packet, and accept it as a fact? If not, I would like to call Mr. Jefferson just to elicit that one single fact.

Mr. Keenan: Could we go off the record for a minute?

Exam. Boat: Off the record.

(Discussion was off the record.)

Exam. Boat: On the record.

OFFER IN EVIDENCE

Mr. Claytor: I offer in evidence Exhibit 87.

Exam. Boat: That exhibit as identified may be received in evidence.

(Exhibit No. 87, witness Sawyer in support of Protestants was received in evidence.)

Exam. Boat: You are excused, Mr. Sawyer.

(Witness excused.)

Mr. Hanifin. Would we be able to put Mr. Jefferson on the stand just for one question?

Exam. Boat: Yes. He has been previously sworn, we [fol. 1106] will recall him.

JEFFERSON, a witness previously sworn, was recalled and testified further as follows:

Direct examination.

By Mr. Hanifin:

Q. Mr. Jefferson, does the C & O Railway Company have any routes in connection with the Baltimore Steam Packet Co.?

A. Years ago we did and those routes have been under embargo for years, and I am not sure whether they have been canceled. There is no more such service, and for years the tariff has been under embargo.

Q. Who placed the embargo, sir?

A. The Baltimore Steam Packet ceased to operate through Newport News which caused the embargo.

Mr. Hanifin: That is all we have of the witness.

Cross examination.

By Mr. Keenan:

Q. The Baltimore Steam Packet Co. ceased to operate through Newport News, and does serve, then, Norfolk, right?

A. The only route in recent years has been through Norfolk and the N & W, not in connection with the Chesapeake & Ohio Railroad.

Q. And the C & O does not pick up any of this by car-float?

A. That is correct.

[fol. 1107] Q. Or by lighter or anything like that?

A. They do not.

Q. And the routes still could be published in tariffs, but your proposition is it is not used, and that is all you know about it—right?

A. It was under embargo for years, and I am not certain whether or not it has been canceled, but there is no such existing operating route today.

Q. Then it is in tariffs, is it not?

A. I am not certain it is.

Q. You do not know that it is not?

A. I do not know that it is not.

Q. You are sure it was at one time?

A. I know it was at one time, but I know it has been in embargo for years, and I am not certain but what it was canceled.

Q. Incidentally, while Mr. Jefferson is here, is that information of 8 cars for the car float from Newport News to Norfolk correct?

A. The C & O mileage tariff says 14 miles.

Q. That is what I wondered about.

A. What the actual water miles are, I am not certain.

Mr. Keenan: That is all.

Exam. Boat: The witness is excused.

(Witness excused.)

[fol. 1108] Mr. Claytor: Off the record.

(Discussion off the record.)

Exam. Boat: On the record.
Mr. Claytor: I am calling Mr. Petterson.

R. E. Petterson a witness, was sworn and testified as follows:

Mr. Claytor: Mr. Examiner, in accordance with my letter of November 20, 1957 to you, with copies to all parties of record, we subsequently mailed to all parties of record certain revised copies of the testimony and exhibits of Mr. R. E. Petterson. It is these revised testimony and exhibits which I wish to offer for identification at this time.
These may be identified by being stamped prominently "Revised."
Exam. Boat: On their face?
Mr. Claytor: On their face.
Exam. Boat: They may be identified as exhibit 88.

(Protestant Exhibit 88, Witness Petterson was marked for identification.)

Mr. Claytor: May the record show I hand a signed copy of exhibit 88 to the reporter.
The Witness is tendered for cross-examination.

Cross examination.

By Mr. Miller:

Q. Mr. Petterson, your first 11 sheets of your exhibit are based on computations made in accordance with the I.C.C. [fol. 1109] rail form "A".
A. Yes, sir.

Mr. Claytor: For clarification, sir, there are five exhibits. You refer to REP No. 1, I take it?
Mr. Miller: Yes.

By Mr. Miller:

Q. Now the computations you made for Norfolk and Western, Chesapeake and Ohio, and the Virginia Railroads, combined, were made by yourself, were they?
A. They were made under my supervision.

Q. You did not make them, no?.

A. Well, I would not say that I did not do some work on them. I would say I did some work on them.

Q. Now the computations for the Eastern District, using the rail Form A, did you make those computations?

A. I obtained those computations from the cost section, from their work papers.

Excuse me. I might, for the record, show that the sheets that you were talking about, I think as far as the Pocahontas went through Sheet 6, and then sheet 7 through 11, I believe is for the eastern district.

Q. So sheets 7 to 11 were simply copies from the I. C. C. prepared forms, right?

A. With the exception of the typed notations and computations shown on sheets 10 and 11.

Q. Who did the copying of sheets 7 to 10?

[fol. 1110] A. One of my assistants in the office.

Q. Did he, also, prepare this portion from sheets 2 to 6, inclusive?

A. He worked on it.

Q. Well now, were the actual computations on sheets 2 to 6 prepared by somebody in your organization?

A. Yes, sir.

Q. Full-time employee?

A. Yes, sir.

Q. Have you ever, in the course of your employment, made any of these form "A" cost studies yourself, personally?

A. Yes, sir.

Q. Now, let us turn to the computations for the eastern district, pages 7 to 11.

Now, it is true, is it not, that those figures apply only to the Class L railroads?

A. In the Eastern District, that is true.

Q. In the Eastern District?

A. Yes.

Q. And those figures are average figures, are they not?

A. Yes, sir.

Q. There may be some railroads that have, if costed individually, would have higher figures and some would have lower figures, would they not?

A. Yes.

[fol. 1111] Q. And some carriers would have high terminal costs, higher than the average, and some would have lower, would they not?

A. That is possible.

Q. That would also be true with respect to the line-haul operations?

A. Oh, yes.

Q. Now, is it not true that there are a wide variety of reasons why these costs would differ as between the individual railroads?

A. Oh, yes, naturally.

Q. And the volume of the traffic on a particular railroad would have some effect on these costs, would it not?

A. That is right.

Q. In other words, a railroad having a high density of traffic would have lower unit costs than one with low-density, isn't that true?

A. That naturally follows.

Q. And they would also vary, would they not, with the consist of the traffic, on a particular railroad?

A. Well, I think the density of traffic is the biggest factor.

Q. I did not ask you that. I asked you if the consist of the traffic would have some effect. It would, would it not?

A. It might.

Q. And the railroads that were hauling a high proportion [fol. 1112] of bulk traffic like coal and ore and so forth, would tend to have lower unit costs than those that were hauling preponderantly merchandise traffic, isn't that right?

A. I would go back again to say it is the density of traffic that produces the lower cost.

Q. I did not ask you that question.

May I have the question read?

Exam. Boat: Read the question, Mr. Reporter.

(The question was read back.)

The Witness: I don't agree with that. I think the merchandise roads might have a greater volume of traffic than your bulk roads.

By Mr. Miller:

Q. Why do you say that?

A. Your over-all density of traffic might be heavier. You might have more merchandise traffic per mile of road on one line than you do bulk traffic on another road.

Q. Let's assume for purposes of simplifying this matter that density of traffic is equal.

Wouldn't that cost for those roads having bulk traffic be lower than those having merchandise traffic?

A. Assuming the density per mile of road was the same?

Q. Yes.

A. Yes, that would follow.

Q. Now, what you have testified to is illustrated by the fact that the Pocahontas carriers have a lower unit cost [fol. 1113] than the Eastern District carriers?

A. Because of their higher density of traffic.

Q. And the difference possibly also in consist? That would be a contributing factor?

A. It might.

Q. Now then, these costs are not separated on the basis of the type of commodity that is transported, are they?

A. No, sir, they are separated on the type of car.

Q. And the type of commodity or the value of the commodity carried in that particular car is not related to the cost?

A. I do not know as I understand.

Q. As computed in this form "A"?

A. That is correct.

Q. And these costs are not computed on the basis of operations between particular points, are they?

A. No.

Mr. Claytor: What costs do you have reference to in that question, the whole exhibit, or the Eastern District?

Mr. Miller: Yes, from pages 2 to 11, inclusive.

By Mr. Miller:

Q. He has already answered the question.

He has answered it correctly.

Now, then, turning now to the remainder of the exhibit —and we will take for example page 12 where you have

at the top of the page a computation between Hampton Roads and Chicago.

[fol. 1114] Those costs that you have computed there are not necessarily the actual costs of transporting any particular commodity between those specific points, are they?

I am speaking of actual costs.

A. Certainly they are not actual costs. They are relative costs. They have been adjusted, however, to reflect the class of car and the train tonnages in which this traffic moves.

Mr. Miller: Those are all the questions I have.

Thank you.

Exam. Boat: That completes the cross-examination?

Is there any redirect?

Mr. Claytor: No redirect.

Exam. Boat: Very well.

You are excused.

(Witness excused.)

OFFER IN EVIDENCE

Mr. Claytor: I offer in evidence exhibit 88.

Exam. Boat: That exhibit previously identified is received in evidence.

(Protestant's Exhibit No. 88, Witness Petterson, was received in evidence.)

Mr. Hanifin: If the Examiner please, the next witness we would like to offer is Mr. W. M. Warren, who is filing his revised testimony and which has been circulated to all parties of record.

[fol. 1115] At this time, I will offer to the reporter the verified copy of his testimony and exhibits.

Mr. Warren was called for examination on cross by the General Services Administration.

W. M. WARREN a witness was sworn and testified as follows:

Direct examination.

By Mr. Hanifin:

Q. Give us your name.
A. W. M. Warren.

Mr. Hanifin: Mr. Warren is now tendered for cross-examination.

Exam. Boat: Did you identify the exhibit?

I don't believe you did.

Mr. Hanifin: May it be marked for identification as Exhibit 89.

Exam. Boat: It may be so identified.

(Protestant's Exhibit No. 89, Witness Warren, was marked for identification.)

Cross examination.

By Mr. Miller:

Q. Mr. Warren, in making up your exhibits, you did not yourself or by any subordinate of yours actually use the I.C.C. form "A" for recomputation of the costs, did you?

A. No, I did not.

[fol. 1116] Q. What you did was simply take the computations made by the I.C.C. cost section and start where they left off, is that right?

A. That is correct.

Q. Now, the only exception to that, I believe, is some computations that were made with respect particularly to the Hampton Roads ports, is that correct?

A. That is correct.

Q. Now, with respect to those special computations on the Hampton Roads ports, were those apportionments merely directly assignable costs, or did you apportion any common costs?

A. Yes, we did apportion some of the common costs.

Q. On what basis did you do it? Was there any general basis?

A. Well, there are several bases, carried in the footnotes over on page 3 of that particular exhibit.

Exam. Boat: Off the record.

(Discussion off the record.)

Exam. Boat: On the record.

By Mr. Miller:

Q. Would you point out on W-2 where there is shown the assignment of common costs?

A. Yes, the footnote 1, footnote 3, footnote 4, and footnote 5. As explained on page 3 of the W-2.

Q. Is that only on your revised exhibit?

A. Yes, it is.

Q. I thought I had your revised exhibit—excuse me just a [illegible].

[fol. 1117] Mr. Hanifin: Do you want me to give it to you?

Mr. Miller: It is in the statement, is that it?

The Witness: Yes.

By Mr. Miller:

Q. I am sorry, excuse me.

A. No, it is on page 3 of the exhibit W-2.

Mr. Hanifin: You do not have the revised one, that is the trouble.

Mr. Welsh: May we go off the record for a minute? There seems to be a little confusion.

Exam. Boat: Off the record.

(Discussion was off the record.)

Exam. Boat: On the record.

By Mr. Miller:

Q. Do you have any precedent for making these assignments of the common costs, or were they just the selected ones by chose as a method?

A. No, we have precedence for that in the prior major port case. I have reference to it, if you wish. And, also,

we followed the same plan that the Pennsylvania Railroad had at New York.

Q. Would you give me those references?

A. I.C.C. Docket No. 12681, reported 157 I.C.C. 663; that was the prior case.

Q. Did the I.C.C. use this method?

A. No, it was filed in that case.

Q. I see.

[fol. 1118] Now, in footnote 1, I would understand that the common costs have been assigned on the basis of a large number of direct assignments, is that right?

A. That is right.

Q. In footnote 3 there apparently was an assignment on the basis of ratio of traffic.

What sort of traffic figures did you use to obtain that ratio?

A. We had the system figures.

Q. I know, but were they tons, dollars, or what?

A. They were dollars.

Q. Revenue dollars?

A. No, expense dollars.

Q. Maybe I misunderstand the meaning of the term "traffic" here.

A. Well, that is shown back on page 1, line 22.

Q. Those are traffic expenses, not traffic volumes?

A. That is right.

Q. In other words, you apportioned traffic expenses on the basis of your apportionment of maintenance of way and structures, maintenance of equipment for the system, is that right?

A. That is right.

Q. What basis did you have for that?

A. That is roughly the same basis used in 12681 and also [fol. 1119] by the Pennsylvania Railroad.

Q. Is there any good reason for it?

A. Yes, I think so.

Q. What is it?

A. Of course traffic is a very small item of the total, but the only way we could apportion it was based on the system figures.

You can see over on page 1 that the total traffic was only $64,000 in column 15. It is an overhead item which should be apportioned on a ton basis.

Q. Then according to footnote No. 5, you did the same thing with general overhead, except that you added your traffic expenses to aid in your apportionment, is that right?

A. That is correct.

Q. Now in footnote 8, what do you mean by that word "Estimated"?

A. Well, we had precise figures for some of the items, and to make the total figure we added 10 percent for miscellaneous supplies, which we had no precise data for. So to the extent of the 10 per cent, it was estimated.

Q. In your footnote 13, you use the word "estimated," again.

Did you simply use the system figure, or did you change the system figure?

A. No.

[fol. 1120] We simply used 3.42. That applies to line 8, on page 1, it is a very small item. It is only some 56 dollars.

Q. Do you have any actual figure, or estimated figure, for the proportion of direct as compared with common costs in your computation here?

A. No, but it can be added up, I take it, the actual figures here.

Q. In other words, in your explanatory words the word "actual" designates the direct assignment and the other columns are—

A. Well, just about. There would be one or two items which would be estimated.

Q. Which of the items marked "Actual" contains some estimates?

A. Oh, no, none of the actual contains any estimates.

If you take footnote 2, for example, it does contain an estimate.

Q. You say in footnote 2 "Materials and Supplies Estimated on per cent of total for eastern region and central region for 1956."

In other words, 36.49 per cent

In the first place you have used that is in the apportionment of your office space and building expenses, I guess that is the only place you have used it?

A. That is correct.

[fol. 1121] Q. In other words, you apportioned station and office buildings—is that as between the ores and the other piers, on that basis, or just what have you done there?

A. First we had the actual labor, which was $44,955.

Q. Yes.

A. Then we had to calculate the "M and S" which was done, based on a percentage of 36.49.

Q. To the labor, you mean?

A. That is right. Then we had to divide it between 4, 5, 6 and 8, on the one hand, and pier 2 on the other hand, which was done very roughly based on percents reflected by the total investment.

Q. What was the general basis of division of these expenses between pier 2 and the other piers?

A. Generally speaking, it was actual.

Q. Well, it is actual where you have marked it actual, is that correct?

A. That is correct.

Q. Where you have not marked it actual, how is the division made?

A. The only division was at line 2 on page 1. All other figures are either direct, or estimated directly.

Q. Take this account 201, superintendents.

You scattered those expenses across the page. Tell us how those were apportioned between Pier 2, on the one [fol. 1122] hand, and piers 4, 5 and 6 and eight—two separate operations entirely.

Exam. Boat: Mr. Miller, off the record.

(Discussion was off the record.)

Exam. Boat: On the record.

We will recess for five minutes.

(Short recess.)

Exam. Boat: Come to order, please, gentlemen.

You may continue.

By Mr. Miller:

Q. Suppose we try and clear this up by your explaining how you scattered your traffic expenses as between ores at pier 2 and the other piers?

A. I did not do that, frankly. I had the data for pier 2, the basic expense data, and I apportioned the traffic to Pier 2 based on those figures and the system ratio, separate and distinct from Piers 4, 5, 6 and 8.

Then piers 4, 5, 6 and 8 were done likewise, separately and distinctly from Pier 2.

There is no connection at all.

Q. What bases did you have, then, for making the apportionment to Pier 2?

A. What bases?

Q. What basis did you use then?

A. I do not have the exact ratios with me.

Q. All right.

But they were the system ratios as reflected by—

[fol. 1123] Q. System ratios of what?

A. It was—

Q. Of traffic?

A. That is right.

Q. Traffic?

A. Traffic. Ratio of traffic to maintenance of way, maintenance of equipment and transportation, for the system, for 1956, as explained footnote 3.

Q. Do you mean that—oh, you mean that you had traffic expense figures for ores separately from your other commodities, is that what you mean?

A. That is right, for piers 4, 5, 6 and 8.

Q. Were these figures direct figures then that you used for the apportionment?

A. Not direct figures, no, it was based on the system ratios for the same account, roughly four or five per cent, whatever it might have been.

Q. You mean the system keeps separate accounts for this traffic?

A. Oh, no. No, sir.

Q. How does it happen you had separate figures?

A. It is the total system ratios, applied to the particular accounts that you had direct figures for, based on pier 2,

on the one hand, and piers 4, 5, 6 and 8 on the other hand—two separate calculations entirely.

[fol. 1124] Q. Yes, but what was in those figures that you used, separately? What was the content of the figures you used to apportion the traffic expense to Pier 2?

A. Well, take Pier 2, for example.

Q. All right.

As I understand it, you had a ratio that you used?

A. That is right.

Q. How was that ratio computed?

A. The ratio was computed by the system figures.

Q. System figures?

A. Yes.

Q. For what?

A. Total expense for the system, for the year 1956, as explained in the footnote 3.

Q. All right.

A. The ratio of traffic to maintenance of way, maintenance of equipment and transportation.

Q. Does your—

A. The form "A" accounts.

Q. Are they kept separately for ores?

A. No that is the system figures. Then when you get the ratios, you come back and apply it to the basic figures that you had for pier 2, on the one hand, and piers 4, 5 and 6 and 8 on the other hand.

Q. Now, in computing that ratio that you used, what was [fol. 1125] the number 8 or—what was the denominator?

A. Well, in footnote 3 you had traffic.

You divided that by maintenance of way, maintenance of equipment, and transportation.

The total of those accounts.

Q. Yes.

A. Divided into traffic expense.

Q. That is right.

A. Would figure—I do not remember the figure, roughly 4, 5, or 6 per cent. So then that 6 per cent of whatever the figure was—I say I do not have it with me—was applied to the basic figures for pier 2 on the one hand and piers 4, 5, 6 and 8 on the other.

Q. What do you mean by basic figures?

A. Basic figures?

Q. Yes, what do you mean by basic figures?

A. Figures other than the apportioned figures as shown on No. 2.

Exam. Boat: That is some actual figures you had?

The Witness: Yes.

Exam. Boat: All right.

By Mr. Miller:

Q. What were the figures to which this ratio was applied?

A. As I say, I do not have my work sheet with me but I [fol. 1126] can get it and give you the actual figures.

Q. I do not care for it in dollars.

A. All right.

Q. Can you describe what it contains?

A. Well, basically it included the figures in Pier 2, here, for example, that were shown as being actual figures, and also 1 and 2 other items which were in part estimated. They were estimated.

Q. Maybe I am beginning to understand.

It is beginning to dawn on me. Let us see if I am correct, now.

You took the actual expenses that you had for pier 2, and then applied 6 per cent to that to get the figures that you have here in line 22, is that it?

A. That is correct.

Q. Is that what you did?

A. Yes.

Q. How do you know that the traffic expenses for Pier 2 would be 6 per cent?

A. Frankly, I do not think it would be 6 per cent, but we were asked to put the data on the basis of full cost, and in order to do that we had to apportion that traffic on some basis and this is the only basis we could think of.

Also, the basis which is a part of 12681.

Q. Part of 12681?

[fol. 1127] A. Yes, sir.

Q. Now, Mr. Warren, let us return now to the basic data that you used from the Interstate Commerce Commission cost findings section.

A. All right.

Q. Now, those costs are average costs, are they not?

They are for the entire district, are they, Mr. Warren?

A. For the entire district.

Q. And there would be some railroads that would have higher costs than the average and some would have lower costs than the average, is that right?

A. Yes.

Q. These costs might also differ as between different parts of the Eastern District, is that correct?

A. I presume so, yes.

Q. It also would vary—that is, the actual costs would differ from these average costs as between specific cities?

A. Yes, I suppose they would.

Q. In other words, a shipment from Chicago to one part of Eastern District might vary from a shipment from Chicago to another part of Eastern District for the same mileage?

A. It could be.

Q. As the actual costs?

A. Yes.

Q. In other words, these I.C.C. costs do not represent [fol. 1128] actual costs of movement of a particular commodity between particular points, do they?

A. That is probably correct.

Q. Now, on particular railroads, the costs might vary for quite a number of reasons, isn't that correct?

A. Up or down, yes.

Q. Density would be one of those reasons, density of traffic on a particular railroad?

A. Yes, sir.

Q. A high-density railroad would have lower unit costs than a railroad with lower density, right?

A. Lower unit costs?

Q. Yes.

A. Generally speaking, yes.

Q. For the same reasons these costs will vary from year to year because the density of traffic varies from year to year, isn't that right?

A. That is correct, it probably does, yes.

Q. And these costs will also vary as to the consist of the traffic on particular railroads.

A. Well, I would not go along with the consist except they reflect the volume.

Q. Let us take for example a situation particularly of the Pocahontas Roads which have the high volume of hopper car traffic.

[fol. 1129] A. All right.

Q. Let us say coal, particularly.

A. All right.

Q. Now, doesn't that consist of traffic tend to influence a lower-cost on those railroads as compared with railroads which do not have that type of traffic?

A. On some portions of the costs, yes, and on other portions, no.

Again of course it is due to the volume.

Q. Then you do not agree with the previous witness in his responses to my questions in regard to the consist of the traffic, is that correct?

A. I would go along with the volume, but not the consist.

Q. All right.

A. Maybe we used different words.

Q. Well, let us take, for example, some of these constructions of costs as you have shown, and I have just arbitrarily turned to page 6 of your exhibit W-1.

A. Yes, sir.

Q. These costs that you show between Newport News-Norfolk, and Charleston, West Virginia, are not purportedly the actual costs of moving any particular commodity between those particular points, are they?

A. They are the costs which result from the Commis-

[fol. 1130] sion's cost scales.

Q. But you do not know whether or not those are actual costs, do you?

A. Well, I would not say they are precise costs.

Mr. Miller: All right.

Those are all the questions I have.

Thank you, sir.

Exam. Boat: Is there any redirect?

Mr. Hanifin: I had one or two questions on this exhibit, Mr. Warren.

Exam. Boat: Proceed.

Redirect examination.

By Mr. Hanifin:

Q. I had one or two questions on this exhibit, Mr. Warren. Do you consider the method of setting up the accounts in your WMW-2 to overstate the actual costs of the operations in connection with the Chesapeake and Ohio Terminals at Newport News?

A. I would say they do, yes.

Q. They do?

A. Yes, sir.

Q. Now, would you point out the accounts that you consider would be a continuing expense even though we performed no water-borne operations down there whatsoever, which are listed in your WMW-2?

A. All right. Now, I would say most of the apportioned [fol. 1131] accounts, namely 201, 301, 371, 351-359, 451-462, practically would be continued even if the operation at Newport News were discontinued.

Q. All right now.

How about your item No. 39, Proration of tug boat time?

A. The tugboat operation at Newport News is maintained principally for docking and undocking coal and as I recall the time for that particular service ran about better than 50 per cent.

Q. In other words, you would end up with this time which is being used to lighter traffic to the extent that any is lightered as simply non-productive time on the coal-ship movements, if it were not used in connection with lightering traffic?

A. That is correct.

Mr. Hanifin: That is all.

Offers in Evidence

Exam. Boat: Do you tender the exhibit?

Mr. Hanifin: I wish to tender in evidence Mr. Warren's Exhibit No. 89.

Exam. Boat: Exhibit 89 as previously identified is received in evidence.

(Protestant's Exhibit 89, Witness Warren, was received in evidence.)

[fol. 1132] Exam. Boat: The witness is excused.

(Witness excused.)

Exam. Boat: Now we have statements of witnesses Joseph D. Craven, F. J.—Ferry Curren and Julian Y. Bedox, as to which no cross-examination was requested and the originals were furnished to me.

Those will be identified as exhibits 90, 91—

Mr. Welsh: We have the names of each one as you number them, so we may have them on our record, sir.

Exam. Boat: All right.

Craven will be exhibit 90.

Mr. Welsh: All right.

Exam. Boat: Mr. Curren's exhibit is 91.

Mr. Welsh: 91.

Exam. Boat: And Mr. Bedox is No. 92.

(Exhibit No. 90, Witness Craven in support of Protestants was marked for identification.)

(Exhibit No. 91, Witness Curren in support of Protestants was marked for identification.)

(Exhibit No. 92, Witness Bedox in support of Protestants was marked for identification.)

[fol. 1133] Exam. Boat: I think Mr. Wagner has one he wishes to offer.

I have the originals here, Mr. Wagner, I believe, unless you have another original.

Mr. Wagner: I have the original.

Exam. Boat: O. K.

Mr. Wagner: Mr. Examiner, may I have identified the verified statement of Mr. George B. Shuler for Oscar Mayer & Company?

I am giving the reporter an original.

Exam. Boat: That may be identified as exhibit 93.

Mr. Wagner: All right.

(Exhibit No. 93, Witness Shuler was marked for identification in support of Protestants.)

Mr. Wagner: May I move its admission into evidence at this time?

Exam. Boat: It is received into evidence.

(Exhibit No. 93, witness Shuler was received in evidence.)

Exam. Boat: Exhibits 90, 91 and 92 are received in evidence as this time.

[fol. 1134] (Exhibit No. 90, Witness Craven in support of Protestants was received in evidence.)

(Exhibit No. 91, Witness Curren, in support of Protestants was received in evidence.)

(Exhibit No. 92, Witness Bedox, in support of Protestants was received into evidence.)

Exam. Boat: There was also forwarded to me a statement of position by the State of New York Department of Commerce in lieu of an earlier statement I believe, and the advice I have is that copies of this were served on the parties. It will be filed in the docket, as are other such statements.

Mr. Langdon: Is that the statement, sir, without the verification?

Exam. Boat: That is right.

Mr. Langdon: Without the verification?

Exam. Boat: Yes, sir.

Just the statement of position, I understand.

Let us go off the record.

(Discussion was off the record.)

[fol. 1135] Exam. Boat: Back on the record.

Mr. Colgren: I would like, for the sake of the record, Mr. Examiner, to ask the Pennsylvania attorney, I understand Mr. Taylor, whether or not Mr. J. L. Heywood, assistant comptroller of the Pennsylvania Railroad, who submitted cost evidence in this proceeding, has received my letter dated February 20, 1958, seeking the underlying papers for the exhibits 3 and 4 which were distributed to

the parties in this proceeding on February 19, and also asking certain information that had been expected to be developed on cross-examination on February 19.

In the interest of expedition that additional information was requested, and I would like to have some idea whether or not that information will be shortly forthcoming.

Exam. Boat: Can you indicate, Mr. Taylor?

Mr. Taylor: Mr. Heywood has received the letter through Mr. Bongartz, but has been unavailable for consultation since the letter was received.

Mr. Colgren: I see.

Mr. Taylor: We will answer it in due course just as soon as it can be considered.

Mr. Colgren: Of course, for our cross examination on March 2, it seems to me the essential data that we should have as soon as possible would be the underlying papers of [fol. 1136] exhibits 3 and 4, which it would seem would just require perhaps a duplication by someone.

Mr. Taylor: It would seem so to me, but I just do not know what is involved.

Exam. Boat: I think copies of that should be made available to Mr. Colgren and to the Commission as in the case of the first two exhibits.

Mr. Taylor: Yes.

Exam. Boat: Of Mr. Heywood's, as soon as possible, because the time is none too long now.

Mr. Colgren: I have one other question here in connection with those people now to be set over until March 25 for one reason or another.

Is witness J. L. Stanton in that group?

Exam. Boat: That is right.

I understand they are witnesses Stanton, Massen and Mora and Keitz and Mr. Heywood.

Mr. Langdon: Mr. Thomas, too, sir.

Exam. Boat: That is right.

And also Mr. Thomas.

Thank you for bringing that to my attention.

I believe that is all that we have to take care of at the March 25th hearing.

Off the record.

(Discussion was off the record.)

[fol. 1137] Exam. Boat: Back on the record.

The hearing will stand adjourned until March 25, 1958, at 9:30 a.m. at this place.

(At 12:50 p.m. the hearing was adjourned until 9:30 a.m., March 25, 1958.)

[fol. 1137a] Secretary's Certificate to transcript (omitted in printing).

[fol. 1138]

BEFORE THE INTERSTATE COMMERCE COMMISSION

I & S Docket No. 6615

ISA Docket No. 32204

[Title omitted]

March 25, 1958

Met, pursuant to adjournment, at 9:30 a.m.

Before: Marion L. Boat, Examiner.

[fol. 1140] PROCEEDINGS

Exam. Boat: Come to order, please, gentlemen.

We will resume the hearing now.

Off the record.

(Discussion off the record.)

Exam. Boat: On the record.

Mr. Foley: Mr. Examiner, at the last hearing I was asked if I would agree that two reports, purporting to be by the Advisory Council of the Port of Boston Commission were authentic. Until the distribution at the hearing I had never seen either report and I was unfamiliar with them. I, therefore, was in no position to say whether they were

or were not authentic. On my return I inquired and I find they are authentic.

I therefore stipulate to their authenticity.

Exam. Boat: I do not believe there was other objection on the record, Mr. Langdon.

Mr. Foley: I indicated if they are offered, I would like to object on the ground of relevancy and I would like to be heard on that ground if they are offered.

Mr. Langdon: I offer now, copies, Mr. Examiner, of a report of the Advisory Council to the Port of Boston Commission submitted to Governor Furcolo on December 2, 1957, and also a copy of a supplementary report of the same council to the same Commission submitted to the [fol. 1141] Governor under date of December 31, 1957, copies of these reports were distributed at the prior hearing. I have extra copies here. I think parties, though, have copies, and I now offer them in evidence, Mr. Examiner, and I also, if I may at this time, offer in evidence the certified copy of Chapter 608 of the General Laws of Massachusetts, for the year 1953 which provision of the Massachusetts statutes provides for that Boston Port Commission, as well as the advisory council to the Port of Boston Commission.

I have a certified copy of that statutory provision here which I tender for the record and I have copies to distribute to the parties.

I gave you one, sir, just a moment ago.

Mr. Foley: Mr. Examiner, may I be heard?

I have no question at all as to the staute.

As to the two reports I want to call to your attention that they are irrelevant.

Mr. Langdon: Could I have numbers on these, sir, so they will be identified?

Exam. Boat: We will identify the statute as counsel's Exhibit No. 94.

(Protestant's Exhibit 94, Counsel Langdon was marked for identification.)

[fol. 1142] Exam. Boat: I do not believe I have copies of the other one, Mr. Langdon.

Thank you.

Do you wish to offer them as one exhibit, or do you wish separate numbers?

Mr. Langdon: I think they ought to have separate numbers, sir, one dated December 2 and the other December 31.

Exam. Boat: The original one may be identified as counsel's exhibit 95.

(Protestant's Exhibit No. 95 Counsel Langdon was marked for identification.)

Exam. Boat: And the Supplementary report as counsel's exhibit 96.

(Protestant's Exhibit No. 96, Counsel Langdon was marked for identification.)

Exam. Boat: Mr. Foley.

Mr. Foley: Mr. Examiner, at the last hearing Mr. Langdon indicated, if I interpreted him correctly, that he considered these documents official documents and I think he is right on that point.

Therefore you see, I am not objecting on the ground of hearsay and no opportunity to cross examine. I am objecting on the ground of relevancy. As I understand from [fol. 1143] what Mr. Langdon told you the last time he is offering these to show it is not the differential that injures Boston, it is the labor situation at Boston.

I submit, whether there are two or three or four obstacles that Boston must overcome is completely irrelevant in this case.

This is not a case where injury must be shown by the Port. The Port is not a complainant here. This is case where the Boston carriers are trying to put this rate in, a competitive rate. It is perfectly clear from the record that they cannot compete with Baltimore against the differential.

It is perfectly clear that they need parity to be in a competitive position with Baltimore. Now whether there are some other obstacles or are not some other obstacles is completely irrelevant.

They are entitled to be competitive. All things cannot be cured in an instant and the mere fact that you take one

at a time is no barrier. This is not a case where a showing of injury is required.

It is a showing of a necessity to be in a competitive position which must be shown and Boston cannot compete without a parity rate. Maybe or maybe not it has other problems but it cannot compete without a parity rate and I think this is completely a red herring intended to try to push our case a little in the background.

[fol. 1144] Now, I may add, Mr. Examiner and perhaps this is the appropriate time, so I can finish, I may add if you do decide you are going to take these two reports in then they are not complete without a third report which I will distribute—would you distribute it now—which I feel also is irrelevant, but if these two reports are admitted, the third report should come in.

I will give you the history of the third report, Mr. Examiner. When I returned to Boston I got in touch with the Chairman of the Advisory Council and he was actually shocked of the use which was being made of the first two reports.

His position was and he told me it was the position of the Advisory Council that the labor problem in Boston is a product of lack of volume and that with parity rates there is every anticipation that they will have volume and that therefore the labor problem will cure itself automatically.

This report has been given to the governor. It is just as official as the other two. It is an official document and I ask if you overrule me on the relevancy or decide you will take it in for what it is worth, the other two reports, that you take in this and Mr. Langdon can authenticate if if there is any question as to its authenticity.

The only way that 21 people on the Advisory Council is through an official report, Mr. Examiner, and in order that [fol. 1145] the other two reports may not be misconstrued, in order that the Governor or the public or anybody else be not under any misapprehension they have recorded themselves officially in a third report.

Exam. Boat: Mr. Langdon, what do you say to that?

Mr. Langdon: Mr. Examiner, I do not think we have any objection to having this report of this Advisory Council

that was written after our request for their official reports of last December.

I do not think we have any objection to that. Apparently it constitutes a rebuttal or an attempt to rebut the findings in the prior report and written then after this last hearing.

Now, if, in order to complete Boston's case on this point they want this report, this third report, dated March 20, 1958 in evidence, I think that is agreeable to us.

But to say that this report of December 2 as supplemented December 30, is not relevant in this case is a very curious position to take.

Boston, despite its two or three hundred additional miles, over the years has had New York rates, and in this case, of course, they want Baltimore rates in order, as they say, to compete on a better basis.

But, apparently the real reason that New York rates at Boston have done them little if any good in the past is that they have a labor condition up there in Boston which is [fol. 1146] spelled out in this report and on page four of the report of December 2, 1957, it is said, and I quote "Under present labor conditions the simple undeniable fact is that we can not compete with other ports along the Atlantic Seaboard"—end of quote.

Then in their supplementary report, they spell out what that labor condition is and they take issue—this is the advisory council to the Board of Boston Commission—they take issue with the finding of the Commission itself, that no reliable labor cost data are available to prove or disprove the allegation that the per-man hour productivity at Boston is relatively low by comparison with competitive ports, other conditions being equal, and then they go ahead and cite chapter and verse with actual labor rates in effect at Boston as compared with other ports in this case, including Brooklyn, Philadelphia, Baltimore and Norfolk.

Certainly, Mr. Examiner, that is a very highly relevant report which indicates the principal reason, apparently, why Boston's traffic has been on a relatively low level and New York rates despite the two or thre hundred additional miles have done them little if any good.

Mr. Foley: Mr. Examiner, may I just come in once more. The first two reports make it perfectly clear the

Advisory Council think parity rates are the most important thing that Boston can have. Therefore, right on the face of [fol. 1147] the document it is clear they never thought the labor situation would be a barrier with parity rates. But all of that is actually irrelevant. If there were a labor block there, if we were handicapped because of the labor there is no reason in the world why we should not have competitive rates.

If there are two things you have to take them one at a time. You cannot take them like that. So there is no bearing at all.

Mr. Bleakney: May I be heard?

Exam. Boat: Yes.

Mr. Bleakney: I would like to be heard. I speak for the Boston & Maine; in Mr. Keenan's absence I speak for the New Haven also today.

Rather than repeat what Mr. Foley said, I wish merely to concur in his argument and also to point out this is a railroad case, not a port case and the Boston and Maine and the New Haven and other Boston lines are trying by this case to at least have a fighting chance to compete for this traffic.

The fact that Boston may or may not have labor problems we feel is irrelevant to this proceeding and therefore we, too, contest the relevancy of these reports.

Mr. Langdon: May I simply add this, Mr. Examiner. The Boston people put in an enormous amount of evidence, the burden of which is the differential rates have produced [fol. 1148] a low level of export-import traffic through that port.

This report of the Advisory Council to the Port of Boston Commission would indicate that the differential rates had nothing whatever to do with that traffic level at Boston and have had nothing to do with it and there it is a completely different reason that has contributed to that traffic level at Boston.

Exam. Boat: Well, there is considerable evidence in this record dealing with matters other than the differential, and I will overrule the objection to the tender of the two exhibits which we identified and I wish and I understand that you would like to offer your exhibit then, Mr. Foley.

Mr. Foley: Yes, may it be marked for identification, the third report?

Exam. Boat: Yes, it will be marked counsel's exhibit No. 97.

(Respondent's Exhibit 97, Counsel Foley, is marked for identification.)

Exam. Boat: You offer that exhibit?

Mr. Foley: Yes.

May exhibit 96 be received in evidence?

Exam. Boat: Exhibit 94, 95, 96 and 97 will be received.

(Protestant's Exhibits 94, 95, and 96 are received in evidence.)

[fol. 1149] (Respondent's Exhibit 97 is received in evidence.)

Exam. Boat: Are you ready to proceed, Mr. Warnock?

Mr. Warnock: Yes, Mr. Examiner, I call Mr. Alvin K. Thomas.

Alvin K. Thomas a witness was sworn and testified as follows:

Mr. Warnock: Mr. Examiner, at the last hearing when Mr. Thomas was not able to be present and I believe that at that time Exhibit 8 was reserved.

Exam. Boat: Yes, I do not believe it was identified as an exhibit.

Mr. Warnock: I have here Mr. Thomas' original verified statement and ask it be marked for identification.

Exam. Boat: It may be marked for identification as verified exhibit No. 8.

(Respondent's Exhibit No. 8 witness Thomas was marked for identification.)

Direct examination.

By Mr. Warnock:

Q. Would you state your name and address for the record?

A. Alvin K. Thomas, 143 Liberty Street, New York City.

Q. Are you the same Alvin K. Thomas who made and distributed a verified statement dated January 16, 1958? [fol. 1150] A. I am.

Mr. Warnock: The witness is tendered for cross-examination.

Cross examination.

By Mr. Langdon:

Q. Mr. Thomas, there has previously been received in evidence as part of Exhibit 15, Witness Gilman, a map of New York Harbor entitled "Save Time, Save Money, Ship by the Port of New York."

Do you have a copy of that map before you, Mr. Thomas?

A. Yes.

Exam. Boat: I would like to see that, if I may. Do you have an extra copy?

Mr. Langdon: Yes.

By Mr. Langdon:

Q. Mr. Thomas, would you be good enough to point out on this map the location of your station at Jersey City which, according to your testimony, consists of five covered piers and four open piers.

A. We have two lighterage stations at Jersey City. The one to which you specifically refer is approximately one mile and a half south of the Jersey exit of the Holland Tunnel.

Q. Can you identify it in relation to this map as being opposite to some point in Manhattan or is it below that?

A. It is opposite Liberty Street at the Southerly end of Manhattan.

[fol. 1151] Q. Below the Harbor side warehouse of the Pennsylvania?

A. Yes, sir, about a half a mile or three quarters of a mile south.

Q. Between the Pennsylvania Railroad and the Central Railroad of New Jersey. Is that where it is—opposite the Battery Park of Manhattan?

A. Approximately yes.

Exam. Boat: Off the record, please.

(Discussion was off the record.)

By Mr. Langdon:

Q. I take it that is the lighterage station which includes, as stated in your written testimony, the five covered piers and the four open piers, is that correct?

A. That is right.

Q. Is an important part of your export-import tonnage handled through that facility?

A. Yes, sir.

Q. What proportion would you say, roughly, Mr. Thomas?

A. 70 to 75 per cent.

Q. And the actual operation then consists, does it not, of the transfer of export-import freight between cars and lighters at that facility?

A. Generally.

Q. Do you handle any car floats at that facility?

A. You are referring to foreign traffic?

Q. Yes.

[fol. 1152] A. Yes, occasionally.

Q. Is that an occasional operation, only?

A. That is right.

Q. For the most part the foreign commerce that is handled at that facility is handled in lighterage service?

A. Yes, sir.

Q. Now, where is your other lighterage station, Mr. Thomas?

A. At Clairmont Terminal, which is also in Jersey City at the foot of Linden Avenue, directly north and adjacent to the Greenville facility of the Pennsylvania.

Q. That is south, however, of the facility that you just described containing the five covered piers and the four open piers?

A. Yes, sir.

Q. And Clairmont Terminal is a lighterage station primarily, is it?

A. Yes.

Q. Clairmont, also, according to your testimony, has facilities for direct transfer of freight between cars and ships, is that not right?

A. Yes, sir.

Q. In addition, it has lighterage facilities for the transfer of freight between railroad car and lighter?

A. It is an auxiliary operation to what we refer as the [fol. 1153] gap operation that has the piers that I described and confined solely to the handling of open-top freight.

Q. Let me get that straight, Mr. Thomas. The only foreign commerce that you handled at Clairmont is freight that is unloaded from or loaded to open top equipment?

A. Exportwise, generally, yes.

We do have a direct import operation whereby traffic or cargo is loaded direct from ship to cars, also restricted to open top carload.

Q. So box car traffic in foreign commerce is not handled at Clairmont terminal?

A. There has not been any box car traffic handled at Clairmont Terminal, since World War II.

Q. In connection with your operations at Clairmont Terminal, do other railroads serving New York, New York, have lighterage freight to and from ships at that terminal?

A. No, sir.

Q. The ships that dock at Clairmont terminal are only available for Lehigh Valley loading or unloading, is that correct?

A. Yes, sir.

Q. And how much of your export import traffic is handled through Clairmont Terminal, roughly? Would that be the remaining 20 or 30 per cent?

A. No, sir.

[fol. 1154] Q. How much would it be?

A. Not more than four per cent.

Q. Not more than four per cent?

A. No, sir.

Q. Where is the balance of your foreign commerce handled? I think you said that the Jersey City lighterage station took about 70 per cent, and Clairmont absorbed about four per cent. Now that leaves roughly 25 per cent. Where is the balance of it handled?

A. I think possibly to clarify this a little more we seem to be lost in two operations at Clairmont terminal, one of which is a keel to car operation confined almost entirely to import traffic.

The other is a car to lighter operation that is restricted almost entirely to export traffic.

Keeping the two operations apart, and referring entirely to the export lighterage freight that is handled through Clairmont terminal, I would estimate that would be 12 per cent of our over-all export lighterage movement.

And at Clairmont then, and in regard to that 12 per cent is the operation comparable to the lighterage operation at your Jersey City lighterage station?

A. Not exactly, because we confine the lighterage operation at Clairmont solely to open car freight, whereas at the gap operation we have both open car and box car.

[fol. 1155] Q. But so far as the open top handling is concerned at Clairmont, is that comparable to the open top handling at Jersey City lighterage station?

A. No, sir.

Q. What is the difference?

A. Clairmont, in effect, wholly serves as an auxiliary operation to our gap operation.

Q. When you refer to your gap operation, what do you mean?

A. That facility that includes the covered and open piers that you originally referred to.

Q. That is the Jersey City lighterage station?

A. Yes, sir, keeping in mind that Clairmont is also in Jersey City.

Q. Now, you referred in your testimony to Clairmont terminal, Mr. Thomas, as being the best rail to keel facility in New York Harbor.

I think that was on page 2 of your statement.

What did you mean when you said, "The best rail-to-keel facility in New York Harbor" end quote, at page 2 of your statement?

A. I qualified it a bit by saying "probably," but we feel it has a flexibility that is not exceeded in the harbor and that at that facility we have a large warehouse that could fit into a foreign traffic operation.

Unfortunately for several years the potential has not [fol. 1156] been such that it has been utilized for that purpose.

Q. Have you compared the operations at Clairmont with the operations of any other railroad in the harbor, or perhaps your own operations at other points to justify your conclusion that it is the best railroad, rail-to-keel facility in New York Harbor?

A. I know of no rail facility in New York Harbor that offers the flexibility of Clairmont, in that we have berthing facilities for several ships and also the bulk head and warehouse available for storage.

Q. Then it is the flexibility that indicates this is the best rail to keel facility in New York harbor?

A. Predominantly, yes.

Q. Is the operation at that facility more economical than the operation at your Jersey City lighterage station?

A. Keeping in mind the two operations that prevail at Clairmont, do you have reference to the discharge of ships to cars?

Q. Yes.

A. Yes.

Q. How much more economical is it?

A. I am not a cost man. That is not within the functions of my job or my department. I could not answer that precisely.

Q. Have you had any studies made of that situation?

A. Not to my knowledge.

Q. Why, in your judgment, is it more economical?

[fol. 1157] A. I think that is elementary.

We do not require the use of marine equipment in that type of operation.

Q. And that is desirable in your opinion?

A. Beg pardon?

Q. That is desirable in your opinion—to avoid the use of the marine equipment?

A. Relatively, yes.

Q. On page 2, Mr. Thomas, you refer to your traffic study for 1946, 1951 and the broken year 1955-56?

A. Yes, sir.

Q. First let me ask you. You give there the Lehigh Valley totals for those three years in cars only. Do you have the tons that those cars carried in those years?

A. No, sir.

Q. How were these figures obtained? Were they obtained from the waybills?

A. Yes, by our auditing department.

Q. But you did not take off the tons, then, you just simply took off the cars, when you examined the waybills?

A. That is correct. Of course I personally did not examine them.

Q. What were your instructions to the auditor when you asked—say—your predecessor's instructions to your auditor, when this study was requested?

[fol. 1158] A. I could not answer that.

Mr. Warnock: Mr. Examiner, perhaps this matter can be clarified, if I may at this point ask the witness a couple of questions.

By Mr. Warnock:

Q. Was this study made at your request?

A. No.

Q. This was made—

A. At the request of my predecessor.

Q. Are you aware of the fact that our waybills for 1946 had been destroyed in a flood at the time this study was made and that these were made up from secondary sources?

A. Yes, now that you recall it, yes, at that point I was not directly involved with the details of the study.

I do remember now that that was the fact.

Q. Then you are not familiar with the fact of how these 1946 figures were prepared?

A. No, I am not. I do not know the reason they were pulled off by cars, rather than tonnage.

Mr. Warnock: Thank you.

By Mr. Langdon:

Q. Well, how about 1951, did the flood take the underlying papers for 1941? Do you have the tons for 1951?

A. No, sir.

Q. Again, so far as you know were waybills the source of that information?

[fol. 1159] A. That was my thought, keeping in mind that at the time these statistics were prepared, I was not directly involved.

I would think, however, that it was necessary to pull these records, the 1946 records, as to cars. Obviously, it follows, to have a comparison the records for the following years would necessarily have to be prepared in the same manner, to get the comparison.

Q. Well, have you the tons for 195—export and import traffic, handled by the Lehigh Valley? Do you have that information?

A. No, I do not.

Q. Do you have it personally here, is it available in your office or at some other office at the Lehigh Valley?

A. It is not available in my office.

Q. How did you get the car figures for the year 1955-56? In the same manner?

A. I would presume so.

At this point would it be proper for Mr. Warnock to explain how those—

Q. I do not want to embarrass you, sir, I realize you did not anticipate in this—that is, directly—but I was wondering, yes, what the Lehigh Valley tons were for these years.

Now, obviously, you must have had the tons for the broken year 1955-56.

[fol. 1160] Are you familiar with the tons handled by Lehigh during the broken years 1956-1955, export-import traffic?

A. As to tonnage?

Q. Yes.

A. No.

Q. You are not familiar with that, either?

A. No, sir.

Q. Well, are you familiar, Mr. Thomas, with other phases of this traffic study, namely, the scope of the territory included in the study?

A. Yes, sir.

Q. You are familiar with that?

A. Yes, sir.

Q. What was that study confined to, Mr. Thomas? Was it confined to traffic to and from differential territory?

A. Yes.

Q. Did you, also, make a study for those same years of traffic to and from territory other than differential territory?

A. No, sir.

Q. You made no study as to your export-import traffic through trunkline territory, as an example?

A. We did not, no.

Q. Did the other railroads, so far as you know?

A. That I would not know.

Q. When you defined differential territory, how do you [fol. 1161] draw that line in the east?

How did you draw the line at the eastern border of differential territory when you made this traffic study? Do you know that?

A. Generally west of Pittsburgh and Buffalo.

Q. Did you include any traffic originating at points east of Pittsburgh?

A. No, sir.

Q. You did not?

A. No, sir.

Q. Mr. Thomas, did you include any traffic originating in Western trunkline territory?

A. No.

Q. No grain traffic originating in Western Trunkline Territory?

A. No.

Q. Do you know, Mr. Thomas, whether there is traffic originating in Western Trunkline Territory that moves on differential rates? Do you know whether that is true or not?

A. Are you referring to differentials via the Southern ports, or Baltimore?

Q. No, I mean the north Atlantic ports?

A. I personally have no knowledge of such traffic, no.

Exam. Boat: On that point, would grain traffic that moves on proportional rates or re-shipping rates from Chicago be [fol. 1162] included in that?

Mr. Langdon: Well, it was in our study, but what we are trying to find out now is whether it was in the Eastern study, I mean the New York Central, Et Al study?

The Witness: So far as the Lehigh Valley was concerned, grain and ore was not a part of our analysis.

By Mr. Langdon:

Q. These figures you gave then as total export figures over on page 3 do not include any grain?

A. No, sir.

Q. Did you handle any grain?

A. In what particular years.

Q. Well, any of the years, 1946, 1951 or 1956 and 1955?

A. Yes, sir, we had handled some grain in 1955-56.

Q. In the prior years?

A. I have no record of grain handled in the prior years.

I might add that inasmuch as grain was not a part of our traffic study that I did not explore the records for 1956 and 1951.

Q. Mr. Thomas, turning now to another subject, does the Lehigh Valley feel the competition of the New York State Barge Canal in the movement of export-import traffic?

A. I would say yes, to some extent.

Q. What commodities do you compete for, which are moving in export import commerce, that can move over the Lehigh Valley on the one hand, or the Barge Canal, on the other?

[fol. 1163] A. I know of no tonnage—no material tonnage movements originating or terminating in the so-called affected territory.

Q. Do you know of any tonnage to points like Erie, Pennsylvania?

A. No.

Q. Cleveland, Ohio?

A. No, sir.

Q. Does the Lehigh Valley handle sulphur traffic—import sulphur traffic?

A. No, we do not.

Q. Did not the Lehigh Valley join with the other lines here a couple of months ago in trying to publish a competitive rate on import sulphur traffic from New York Harbor area to the Niagara frontier?

A. I am not conversant with it.

Q. Now, Mr. Thomas, on page 3, right after your statement of cars, imports and exports, you say and I quote "This study shows a downward trend in import and export traffic handled to and from differential territory by the Lehigh Valley in spite of the fact we participated in a relative portion of the over-all tonnage, over-all foreign tonnage moving through the port."

My question is what do you mean when you say "in spite of the fact we participated in a relative portion of the [fol. 1164] overall foreign tonnage moving to the port," what do you mean by that statement?

A. In our analysis, and taking into consideration the bearing competitive factors that we as a Buffalo-to-New York line are confronted with, we feel that that volume that does move through the Port we enjoy an equitable share of.

Q. What is that, or what was that share in 1946, as an example? Was it ten per cent, 15 per cent?

A. I do not know.

We did not break it down in that respect. There must be kept in mind that there are certain traffic movements, export traffic movements through the port that we are excluded from participation in, entirely. To exemplify that, automobile traffic coming from Bloomfield, New Jersey, Rahway, New Jersey, a lard operation that is confined to movement over one of the New York roads, and those are the factors that we necessarily must take into consideration in formulating any points or opinions whether we are handling an equitable share of the traffic available to our railroad.

Therefore, from our way of reviewing it, we must delete certain bulk or volume traffic movements that we can not participate in.

Q. Because of your disabilities as a railroad, do you mean?

A. No. Because of the fact that ratewise, we are excluded.

Q. So other New York lines are handling the business, is [fol. 1165] that what you mean?

A. In many cases, yes, in others no.

Q. Would you speak up a little? I am having a little trouble hearing you.

A. We have no export rates from Bloomfield, New Jersey and Rahway, New Jersey, and in the case of a vegetable oil operation at Boonton, New Jersey, on the Lackawanna.

Q. Those are transit points, are they, on some of this import traffic, is that what you had in mind?

A. Yes, export, I had in mind.

Q. So that can you not participate in this traffic because the transit point is located on some other line. Is that the burden of your testimony?

A. Yes, sir.

Q. Some other New York line?

A. Yes.

Q. In arriving at this equitable share that you think the Lehigh should have, what is an equitable share—having in mind these disabilities, what is an equitable share for the Lehigh Valley in export-import traffic through New York harbor?

A. 20 per cent of the over-all volume that is available or that is the potential for our railroad.

Q. Well, 20 per cent of the rail traffic to and from New York harbor you think is the Lehigh Valley's fair share?

A. We think so.

[fol. 1166] Exam. Boat: To and from differential territory.

By Mr. Langdon:

Q. To and from differential territory?

Q. Both export and import now, 20 per cent?

A. Yes.

Q. In your second sentence you say the decline can be directly attributed to the loss in percentage of total traffic handled through the port.

You are speaking again, I take it, of the Lehigh Valley decline?

What do you mean by that sentence, sir?

A. That the studies put on by the New York roads indicated a decline in the percentage of traffic movement via New York, while the percentage of volume through the Southern tier ports showed an increase.

Q. What you mean, then, by that sentence is that the Lehigh Valley, in its export-import business, kept pace with the trend of the traffic as a whole at New York, is that what you mean?

A. Once again, keeping in mind our competitive position that as a Buffalo line and not being a Chicago line, we feel that we have, yes.

Q. Now, Mr. Thomas, in seeking from New York the Baltimore rate, is your real objective on the Lehigh Valley to participate to a greater extent in the bulk traffic that [fol. 1167] is moving through Baltimore.

Is that your real objective?

A. We are vitally interested in both the bulk and general cargo type traffic.

Q. And are they equal objectives, or would you say that the bulk traffic is a primary objective?

A. I would say that inasmuch as any source of revenue is the over-all objective, we can say they were equal objectives.

Q. You would like to handle general traffic, I take it, as well as bulk traffic—is that right?

A. Yes.

Q. What is your definition of general traffic, Mr. Thomas—general cargo, I guess that is the more acceptable term?

A. That type of cargo—I would say generally that type of cargo loaded direct from shipside to car, or vice versa, in the export movement, as against the type that is delivered in small quantities to and from steamship facilities.

Q. One or two final questions: You said, in your testimony, Mr. Thomas, that while you were located as a repre-

sentative of the Traffic Department of the Lehigh in Pittsburgh, you contacted a number of shippers in differential territory who were not using New York for their export-import traffic, is that right?

A. That is correct.

Q. And what did you find that the reason was why those [fol. 1168] shippers were not using New York?

A. It was invariably because of the differential in favor of Baltimore, principally.

Q. Was that the only competitive advantage that you understood, in your contacts with these shippers, that existed at Baltimore?

A. That was by far the predominant factor, yes.

Q. Was there any other?

A. I cannot recollect any other.

Q. Now, you say in the conclusion of your statement that under equalization—and I am referring now to the final page—the shippers will benefit in two ways:

First, better facilities and services will be made available.

Now, what plans does the Lehigh Valley have for better facilities that will be made available to the shippers, in the event of equalization?

A. Well, we have considerable space that we can erect or construct better facilities.

Having in mind bulk traffic, we have a facility at Clairmont terminal that adapts itself to handling ore.

Q. You already have that facility, you say?

A. We do not already have the facility presently, no. Here viewing it from another angle, we formerly handled export freight via our national docks facility and because of [fol. 1169] the national docks facility and because of the deterioration, we have abandoned national docks in handling any export traffic.

As a matter of fact we have torn up a considerable trackage at National Docks in order to alleviate the tax burden, because the volume did not warrant retaining it.

Q. That is not a better facility, is it? That would contemplate the use of an old facility, right?

A. In fact, despite that, it offers a very likely area to expand our facilities, if the volume warrants.

Q. What you mean really, when you say that shippers will benefit two ways, is first, better facilities, and services will be available—what you really mean is you have got space to expand in the event the business expands, is that what you really mean?

A. That is correct; yes, sir.

Q. Have you made any detailed plans or had any detailed plans made for the construction of iron ore—or ore unloading facilities at your Jersey waterfront?

A. At this present time, no.

Mr. Langdon: That is all.

Redirect examination.

By Mr. Warnock:

Q. I would like to ask one or two questions in defining the Eastern Line of differential territory, I believe you said it went west of Buffalo and Pittsburgh. Did you [fol. 1170] mean that?

A. Perhaps not Buffalo, exactly. We took generally that territory west of Erie in making our analysis or traffic study.

Q. Is Pittsburgh in the differential area?

A. Pittsburgh is within a differential area, yes.

Q. Referring to the 1955-1956 study, Mr. Thomas, do you, of your own knowledge know on what that study was based?

In other words, did it include all traffic to and from differential territory?

A. It did not include grain nor ore.

Q. Did you give instructions to exclude grain and ore for that study?

A. I personally did not.

Q. On whose authority were those instructions given, do you know?

A. I would presume Mr. Langdon's, my predecessor.

Q. As a matter of fact, do you personally know that grain and ore were excluded from that study?

A. That is correct, yes, sir.

Q. You do know that?

A. Yes.

Q. Now, with reference to—

A. If I may clarify that a bit, it is my impression that is because by far the bulk of our grain tonnage is ex-lake from [fol. 1171] Buffalo and our ore traffic is entirely to unaffected territory.

Q. Now, referring to the Clairmont terminal, at the present time, I believe you said there was unused capacity at that terminal?

A. That is right.

Q. Is that unused capacity very substantial?

A. I would say yes.

Q. You referred to National Docks?

A. Yes.

Q. Would you identify that on the map that was referred to earlier?

A. National Docks is midway between what we formerly referred to as the Gap operation at Jersey City and Clairmont Terminal.

Exam. Boat: Are you finished?

Mr. Warnock: That concludes my questions.

I think Mr. Colgren has some questions he would like to ask.

By Mr. Colgren:

Q. Mr. Thomas, I am a little perturbed by the state of the record on this 1955-56 traffic study. You are familiar, I think you indicated, that this was conducted under your predecessor's instructions, but are you familiar with the fact that that was a current waybill study taken during the time indicated?

A. No, I am not. That was my impression. I was not [fol. 1172] active in the case at that particular time and I just assumed that they were pulling those records from the waybills.

Q. Then you do not know, as a matter of fact, that any traffic was eliminated from that traffic study by the Lehigh Valley people?

Mr. Langdon: Is this cross-examination of their own witness?

Mr. Colgren: No, I would be glad to drop it if you want. I merely want to clarify the record.

Mr. Langdon: We would be glad to have you do it. I think maybe it would be wise to do it from a witness who knows the circumstances.

Mr. Colgren: You realize the circumstances under which Mr. Thomas appears.

Mr. Langdon: Yes, I realize Mr. Thomas is taking the place of a prior witness.

Mr. Colgren: Is there an objection to my prior question, or did I complete it?

Mr. Langdon: Your Honor, the auditor of freight revenues apparently made the study, according to this statement here, and I do not think Mr. Thomas knows, so I do not think there is any point in continuing the cross-examination through his own counsel. That is what I am objecting to.

[fol. 1173] Mr. Colgren: If that is your understanding, I will accept that. I do not think Mr. Thomas was sure, either, but unfortunately the record indicated that certain traffic was not considered in this current traffic study, 1955-1956. I wanted to straighten that matter out for the benefit of the Examiner and the Commission.

Mr. Langdon: I just do not think it is proper to cross-examine your own witness.

He just does not know the answer, and why not leave it at that and tackle it from some different way?

Mr. Foley: He is just trying to refresh his memory and that he is perfectly at liberty to do.

Mr. Langdon: It is not within his memory.

Mr. Colgren: I am perfectly content to let the record stay as it is now.

Exam. Boat: I am also not clear on the testimony he gave on what was general cargo and what was bulk cargo. He did not mention bulk, but his testimony on general cargo it seems to me was not consistent with what we had in the record heretofore.

Mr. Warnock, can you straighten that out somewhat?

I think Mr. Thomas stated his concept of general cargo was that cargo which could be handled directly from cars to ships or from ships to cars.

Now, ordinarily much of that is bulk cargo, as I understand it. Of course it could conceivably include some general [fol. 1174] cargo, also, but that it seems to me was not the test that was applied by some other witness who testified.

Redirect examination.

By Mr. Warnock:

Q. Mr. Thomas, when you indicated that general cargo included shipments that were transferred directly from car to vessel, you were referring just to the operation at the Clairmont terminal, were you not?

A. To our operation, yes.

Q. Would you want to amplify your concept of general cargo as handled through the Jersey City Terminal?

A. That general cargo would be that type of cargo handled to or from shipside in lighterage or float movement, or truck in lieu of lighterage.

Mr. Warnock: Are you satisfied, Mr. Examiner?

Exam. Boat: I think that clarified it somewhat.

Are there no further questions?

Mr. Warnock: May we have just a moment?

No further questions.

Exam. Boat: That will be all, Mr. Thomas. You will be excused.

(Witness excused.)

OFFER IN EVIDENCE

Exam. Boat: Do you tender exhibit 8 in evidence?

Mr. Warnock: Yes.

Exam. Boat: Exhibit 8 will be received in evidence.

[fol. 1175] (Respondent's Exhibit 8, Witness Thomas is received in evidence.)

Exam. Boat: Off the record.

(Discussion was off the record.)

Exam. Boat: On the record.

Proceed.

H. A. KEITZ was sworn and testified as follows:

Direct examination:

By Mr. Walker:

Q. Your name is H. A. Keitz?

A. Yes, sir.

Q. Are you the same Mr. Keitz who filed a verified statement in this proceeding dated October 11, 1957?

A. Yes.

Mr. Walker: I offer that, Mr. Examiner, to be marked.

Exam. Boat: That may be identified Protestant's Exhibit 98.

(Protestant's Exhibit 98 Witness Keitz is marked for identification.)

Mr. Walker: Mr. Keitz is tendered for cross-examination.

Cross examination:

By Mr. Miller:

Q. On page 1 of your statement you refer to the differ-
[fol. 1176] ential on grain and flour?

A. Yes.

Q. Is that the principal commodity that you are interested in?

A. No, we have very little grain on the Newport News Side but they do on the Norfolk side and that is called Hampton Roads.

And on our flour, we do get some flour but not an abundance of it.

Q. So you are interested in other commodities, is that right?

A. Yes.

Q. Would they be general cargo commodities?

A. Yes.

Q. Do you find that these superior services that you mention in your statement exist also at ports other than New York?

A. Well, I would say Philadelphia perhaps has a few more sailings than we do, and perhaps Baltimore, but the predominance—

Mr. Bleakney: We can hardly hear the witness, Mr. Examiner.

The Witness: Will you repeat the question.

By Mr. Miller:

Q. Do you find the competing ports other than New York also have these superior advantages or services of [fol. 1177] any kind?

A. You mean steamship service?

Q. Anything you are referring to in your statement?

A. Well, I am referring to steamship service. They have a more abundant service out of Baltimore I would say than we do out of Hampton Roads, and perhaps out of Philadelphia, but a preponderance more in New York.

Q. Do you regard this larger number of sailings as the principal service advantage that New York has over Hampton Roads?

A. That is one of the big advantages, because traffic moving through Hampton Roads is loaded aboard ships and perhaps ten days later that same ship loads in New York and perhaps sails direct and many shippers do not want their freight on the high seas any longer than possible.

Now, you take a shipper who has a letter of credit, he is naturally interested in getting it on the ship as soon as possible so he can get his money. But you take the consignee on the other side, he is anxious to get his shipment as quickly as he can after he pays for it, so he can get his money back so we have that difficulty.

Q. That is where the ship calls at both ports?

A. That is right.

Q. Do you find that Boston has any of these superior advantages?

[fol. 1178] A. I do not know much about Boston.

Q. But do you notice any competitive effects?

A. Not particularly.

Q. How about Albany?

A. Well, Albany is more or less grain and that, of course, competes with us in a certain sense.

Q. Is it rather small, though, as far as service advantages are concerned?

A. Of course they are all chartered ships, you know. It is not a question of a shiploading part cargo, which they do occasionally, but not very often. The figures are put in and an entire cargo of grain is loaded on the Norfolk side and sails. They go up to Albany and load and sail. They do not stop at any other port.

Q. Do you feel that Hampton Roads can overcome this service advantage of New York by means of the differential?

A. No, I do not think we can.

Q. How—

A. We need some differential in order to compete with New York, for the reasons I just stated.

Q. If the differential can not overcome the advantage, what do you think is needed to overcome the service advantage of New York?

A. We need more sailings.

Q. More sailings?

[fol. 1179] A. If we can get them.

But we do not have the traffic to produce the sailings.

Now, you take, during the war, for instance, when business was very good, sailings dropped off at Hampton Roads and all came from New York and practically all the traffic from territory we serve goes to New York on that account and then when the war is over then we have got to start again to produce the traffic in order to get some realization. And I notice, too, that when business is real good, everybody seems to be happy but the minute it falls off, import and export, they pick on us from the North, and they pick on us from the South, and they have got us in a vise and they have got us on both ends.

Mr. Miller: Those all are my complete interrogation.

Mr. Walker: No questions.

Exam. Boat: You mentioned letters of credit. Could you explain that briefly? It has been mentioned before in the record.

The Witness: You take a consignee on the other side. He makes a purchase on this side and he establishes a letter of credit, presumably in a New York Bank, when the shipment is loaded aboard and his bill of lading is accomplished and signed by the steamship company, he presents that to the bank and he gets his money. There is another disadvantage we have, because while we have bank-
[fol. 1180] ing facilities we do not have the banking facilities they have in New York and some of the forwarders in New York have power of attorney that they can sign the shipper's name to the draft, by authority of a letter to the bank and they can put the documents in the minute it is aboard and they have got their money and that is one of the reasons why the consignee on the other side, when he pays for that, he wants it as quick as he can get it and we have that disadvantage.

Exam. Boat: It is primarily a facility for enabling the shipper to get his funds as promptly as possible.

The Witness: Yes.

By Mr. Miller:

Q. In further explanation of that, the common term of that is C.I.F. shipping.

A. Yes, C.I.F.

Q. And is a preponderance of the trade on that basis?

A. No, it varies. You take some shipments are freight prepaid.

It just depends upon the bill of sale. Some is prepaid, some is collect. Some is delivered alongside and some is on board.

Mr. Miller: That is all.

By Mr. Moerman:

Q. The people for whom you speak are freight forwarders, are they not?

A. Yes.

Q. And you are interested in their situation, particularly?
[fol. 1181] A. That is right.

Q. The fact that the Port of New York is a very large consuming area, as mentioned by you in your statement, is relative to what?

A. Well, they have a lot of plants in the hinterland which produce traffic for the City of New York and when you begin producing traffic, you increase your sailings and that is a nucleus for other traffic to move to New York.

Down our way we do not have that traffic in the hinterland that we can draw on to increase our sailings. All our sailings have to come from the outside.

Q. But your statement is that New York is the greatest consuming section of our country. Local consumption at New York is a great attraction to that port. How does local consumption have anything to do with freight forwarding?

A. That is on imports?

Q. Yes.

A. A lot of imports brought in are consumed right in New York.

Q. Does any of that traffic move by rail?

A. Sure.

Q. Consumed locally in New York?

A. No, not if it is moved, if it is consumed locally. Naturally it cannot move by rail. I imagine a lot of it moves [fol. 1182] from the piers to the plants by truck, some on switch.

Q. Do you understand this case involves switch rates on rail movements on export and import traffic?

A. Yes.

Q. You fear that if the differentials are removed, or as you put it, disturbed, there would be a diversion of traffic from Virginia Ports, is that right?

A. I am confident of that.

Q. Would that be because the rates via New York would be reduced to the Baltimore and Virginia ports level?

A. I beg your pardon. I do not understand that question.

Q. What would bring about a diversion—what disturbance of the differential adjustment?

A. Just as I stated a few minutes ago. The shippers are interested in getting it on the ship as quickly as they can, to get their money.

In some instances, I venture to say they are willing to pay two cents and 3 cents a hundred, if it is a big volume, in order to get their money quicker than they would if they loaded it at Hampton Roads ten days prior to that, because the consignee wants his as well.

Q. Then you agree with me the reduction of the rate to and from New York, a removal of the differential would stimulate traffic for the New York lines, right?

A. I would think so.

[fol. 1183] Mr. Moerman: Just one second.

Redirect examination.

By Mr. Walker:

Q. To the disadvantage of Hampton Roads?

A. Naturally.

Mr. Moerman: That is all.

Exam. Boat: Are there any further questions?

Mr. Walker: None.

Exam. Boat: You may be excused.

Offer in Evidence

The exhibit, do you want that received?

Mr. Walker: Yes.

Exam. Boat: Protestant's Exhibit 98 will be received in evidence.

(Protestant's Exhibit 98, Witness Keitz received in evidence.)

Mr. Marbury: I call Mr. Joseph L. Stanton.

Joseph L. Stanton a witness, was sworn and testified as follows:

Direct examination.

By Mr. Marbury:

Q. Would you state your full name and address for the record?

A. Joseph L. Stanton, Executive Director, Maryland Port Authority, Baltimore, Md.

Q. What is your occupation?

A. Executive Director of the Maryland Port Authority.

Q. Have you prepared and signed a verified statement [fol. 1184] which has been distributed in this case?

A. Yes.

Q. I hand you what purports to be the original of that statement, and ask you to identify it.

A. This is the statement.

Mr. Marbury: I ask that this be offered for identification at this time.

Exam. Boat: It may be marked for identification as Protestant's exhibit 99.

(Protestant's Exhibit 99 Witness Stanton was marked for identification.)

Mr. Welsh: Was that not already identified as exhibit 53?

Exam. Boat: Off the record.

(Discussion was off the record.)

By Mr. Marbury:

Q. Since you prepared that statement, have any events occurred which have a bearing upon the subjects with which you dealt in the original statement?

A. Yes. There are two events that I believe are relative to this motion.

One is the recent move by the American Export Lines, which had been providing what they call the Four Aces Service from Baltimore to Mediterranean ports. Recently American export decided to lay up one of their vessels, one [fol. 1185] of the Four Aces ships and the service at Baltimore was completely eliminated by these vessels and at New York it was continued on.

That, I believe, indicates that when service is to be curtailed, the steamship lines elect to drop Baltimore and do not elect to drop New York in a comparable fashion.

Another question I think is relevant is this question of top wharfage which is as you know the payment of a fee by

motor trucks using railroad piers. Last October the top wharfage practice at Philadelphia was changed. There the steamship lines agreed to absorb the top wharfage. We have been negotiating with those same steamship lines requesting they do the same at Baltimore but we have been completely unsuccessful in having them absorb the top wharfage in Baltimore.

In fact, the representatives to whom I spoke insisted they would not consider it. They said they would curtail their sailings at Baltimore, which indicates they feel it requires some sort of additional support or subsidy.

Q. You are speaking of top wharfage. What about New York?

A. In New York these same steamship lines provide the top wharfage facilities on their own piers at considerable greater cost than these top wharfages would amount to.

Q. What is the amount of top wharfage you speak of which is involved?

[fol. 1186] A. Top wharfage is now rated about $1.40 a ton. It is a use charge charged by the railroads owning the piers against cargo that does not pay a line-haul rate.

Q. And you say the steamship lines have indicated that while they are willing to provide that at New York and Philadelphia, if they were called upon to provide that at Baltimore, they would curtail their service?

A. They have so indicated to us.

Mr. Marbury: All right. The witness is with you.

Cross examination.

By Mr. Miller:

Q. Mr. Stanton, first, discussing this top wharfage, do the motor carriers at Baltimore have to absorb that wharfage in expense, or do they pass it on to somebody?

A. Generally the practice on top wharfage is to pass it back to the shipper.

Q. Is there any amount per hundred pounds of that top wharfage?

A. The basis of the top wharfage is $1.40 a ton, minimum charge.

Q. Is it related, though, to a charge other than a minimum charge?

A. I do not quite understand you, Mr. Miller.

Q. Well, do I understand that $1.40 was a minimum charge?

A. A minimum charge per parcel or package or shipment.

Q. Is there anything in addition to the minimum charge? [fol. 1187] Is there just a flat $1.40 per shipment?

Exam. Boat: Per ton?

The Witness: Per ton?

By Mr. Miller:

Q. Per ton?

A. Yes, if it is more than one ton, it takes the two-ton rate or three-ton rate—

Q. But if it is less than a ton it takes the $1.40 in any case.

A. Right.

Q. So that top wharfage would really be more than the differential, would it not?

A. Substantially more.

Q. Why are the steamship companies willing to accept it, or to absorb it at Philadelphia?

A. I cannot give you the answer to that.

Q. Well, in New York it is not a matter of absorbing the top wharfage. It is simply that none is charged at all, right?

A. At New York it is my understanding the steamship lines provide piers for the receipt of their cargo, and they do not assess the shippers in that case; no.

Q. Now, on pages 4 and 5 of your statement, you referred to a number of advantages of the Port of New York.

Do any of the other North Atlantic ports have those advantages, other than New York?

[fol. 1188] A. In my opinion, not to the same extent.

Q. Well, do any of them have it at all?

A. Have any advantages?

Q. Yes.

A. All the ports have certain advantages—not necessarily the ones here listed for New York.

Q. Does Hampton Roads have any advantages over Baltimore as a port?

A. Yes, I would say they do.

Q. Would you briefly describe what you think the advantages are?

A. I have not gone into this carefully; so I can only give you a few quick points.

Hampton Roads is 150 miles closer to the open ocean than is Baltimore. That results in considerable less steaming time for vessels. I would say that is a distinct advantage.

Q. How about service advantages in the way of port facilities—do they have any of those advantages?

A. What do you mean by that, Mr. Miller?

Q. Well, anything like what you have listed here.

Do you have any cargo-handling facilities or anything like that that provide an advantage over Baltimore?

A. The bulk-handling facilities are very good and they have some excellent general cargo facilities.

[fol. 1189] Q. How about Philadelphia?

Does it have any advantages over Baltimore?

A. One of the matters I just listed was this matter of top wharfage being absorbed by the steamship line. That is an advantage.

Q. Do they have any other advantages?

A. They are not as far from the open ocean as Baltimore. That means they have less steaming time. That is considerable advantage.

Q. Do they have any more sailings than Baltimore?

A. In the matter of sailings I do not believe I do know that. I would have to check that.

Q. How about banking facilities?

A. Banking facilities I would say are superior, but certainly not superior to New York.

Q. How about Boston? Does it have any advantages over Baltimore similar to those of New York?

A. Probably less steaming time to North European ports. That would be an advantage.

Q. How about their sailings?

A. Also, they are closer to the ocean. On their sailings, I have not examined the Boston sailings scheduled in some time. I could not answer that.

Q. Do you think it possible that Baltimore would have more sailings than Boston?

[fol. 1190] A. Yes, I think there might be other reasons, too.

Q. How about Albany? Do you have any competitive advantages there?

A. Do we have competitive advantages over Albany?

Q. Yes—or vice versa?

A. Albany is competitive on grain with Baltimore. That is the only commodity that I know that I would consider the two ports competitive.

Q. Are any of the New England ports that have any advantages over Baltimore?

A. Well, the advantages I have listed for Boston.

Q. Merely the fact they are nearer to the European ports?

A. Nearer to the ocean, and have a large consuming hinterland, adjacent to the Port of Boston, a larger population area than Baltimore. I am speaking of the metropolitan area.

Q. In your opinion does Baltimore need this differential to compete with Boston?

A. Mr. Miller, Baltimore is not competitive with Boston on many commodities. We do not consider Boston our major competition.

But I would say if the differential were eliminated Boston would certainly be competitive with Baltimore then on what cargoes we do have.

Q. On page 7 of your statement, you say "I may add the [fol. 1191] the failure of the Port of Baltimore to attract any appreciable volume of general cargo despite the differential is one of the principal reasons for the formation of the Maryland Port Authority. If such business is to come to Baltimore marine facilities for handling it are essential."

Now, I would understand one of the reasons for Baltimore not obtaining this traffic is lack of marine facilities.

A. The lack of general cargo has made it uneconomical for the construction of additional general cargo facilities, in the opinion of those who have been charged with it in the past.

Q. But the lack of the facilities has also discouraged the traffic. Is that what you mean?

A. Mr. Miller, it stands to reason you have to have facilities in order to handle the traffic. We have some facilities. But the general cargo facilities have not increased, because we have not had the business or indications that we would get the business.

Q. Is this one of those, which comes first, the hen or the egg? Is that it?

A. Well, I believe you would have to have the facilities, of course, before you could get the traffic. And as this points out, the port authority was set up and one of its primary objectives was the creation of those facilities.

Q. And then it is your idea if you create the facilities, [fol. 1192] that will attract the traffic, is that it?

A. We will be at a better position, along with the differential and what other advantages we have, to attract the traffic.

Mr. Miller: Those are all the questions I have.

Thank you.

Exam. Boat: Mr. Moerman.

By Mr. Moerman:

Q. Mr. Stanton, on the top wharfage, so I may understand, the top wharfage is a charge assessed by the owner of the terminal facility for the storage or holding of cargo on the terminal facility, whether it be a pier or a dock, is that correct?

A. Not necessarily for the holding, Mr. Moerman. Any cargo that passes over the pier, even in the free time limits, is assessed this charge.

Q. So it includes handling as well as possible storage?

A. No, it does not include handling. It is a charge against the freight, in this case, for the privilege of moving over the pier.

Q. Is the charge assessed in a unit, or is there an additional charge, if time is involved, for holding the freight or storage?

A. The matter of time or storage does not enter into the top wharfage practice at all.

[fol. 1193] Q. On export sheet steel, for example, or any other commodity about which you know, give me an example of the assessment of top wharfage?

A. Well, take sheet steel moving from Sparrows Point Plant of the Bethlehem Steel Company by motor truck, passing over Baltimore and Ohio pier at Locust Point. That would be a charge of $1.40 per ton for each ton of that shipment.

Q. Would the same charge be assessed with regard to the differential territory traffic involved in this case?

A. Yes.

Q. In and out, import and export both?

A. Both.

Q. Is it not a fact what you have just said must be modified to include only its rail traffic or truck traffic?

A. I am sorry, I do not get that, Mr. Moerman.

Q. Is it not a fact the top wharfage charge is not applied against one type of traffic, rail or truck?

A. That is not applied against it?

Q. That is right.

A. Well, it is applied against truck traffic.

Q. Yes, truck traffic, but it is applied against rail traffic?

A. Yes, Mr. Moerman—

Q. Don't you know that the top wharfage charge—

Mr. Marbury: I object to this. In the first place, he [fol. 1194] asked questions which were obscure and nobody could understand and then he yells at the witness, because the witness could not understand him.

Just calm yourself.

Exam. Boat: I think we are getting down to the nub of this thing.

Proceed, Mr. Moerman.

By Mr. Moerman:

Q. Does the top wharfage charge apply on rail traffic?

A. I defined top wharfage as a charge applied against traffic that did not pay a line-haul rate.

Q. All right. Let us take it from there. If traffic pays a line haul rate, and is rail traffic—traffic moving by rail

road, from differential territory, import and export, I ask you, does it pay a top wharfage charge?

A. No.

Mr. Kraemer: I have a few questions.

By Mr. Kraemer:

Q. On this top wharfage at Philadelphia, you stated the steamship lines absorb top wharfage in Philadelphia?

A. At railroad piers, that is correct.

Q. Do you know why they absorb the top wharfage at railroad piers?

A. I do not know of my own knowledge, no, sir. Possibly competitive reasons.

[fol. 1195] Q. Do you know how long they have been absorbing this top wharfage at railroad piers?

A. The announcement that we have on it, I believe, was set for October 2 of last year.

Q. And what generated that? Do you know what generated that announcement?

A. I do not know the complete history of that, no.

Q. Do you—

Mr. Moerman: I had not finished. Did you assume I had?

Mr. Kraemer: I assumed you had.

Mr. Moerman: I am sorry. Please continue.

Mr. Kraemer: Do you want to go on?

Mr. Moerman: I will continue later. Go ahead.

By Mr. Kraemer:

Q. Prior to this October date, do you know what the situation was at the private terminals in Philadelphia?

A. At the private, where?

Q. Such as Philadelphia piers, incorporated?

A. No, I do not. Not in its specifics, I do not.

Q. Do you know whether they charged top wharfage or not?

A. It is my understanding they levied some charge.

Q. Do you know whether it was the same charge as the top wharfage applied to railroad piers?

A. I would not know.

[fol. 1196] Q. Against whom is top wharfage assessed?

A. At Baltimore it is assessed against the shipper of the goods.

Q. And at Philadelphia?

A. It is no longer in effect at Philadelphia, according to the understanding we have.

Q. No longer in effect where?

A. In the same sense of top wharfage being charged against the shipper, it no longer applies at Philadelphia. The announcement that we received indicated it was being absorbed by the steamship lines.

Q. At railroad piers?

A. At railroad piers.

Q. You have no knowledge of what is being done at the other piers at Philadelphia, other than railroad piers?

A. I understand there are charges made against the cargoes at the Philadelphia Piers and at other piers.

Q. Against the cargo?

A. No, that there are charges being made.

Q. Against whom?

A. I believe it is against the ship.

Q. What are those charges?

A. I cannot give you the detail of the character of the charges.

Q. Is it a dockage charge against the ship?

[fol. 1197] A. I believe there is a dockage charge there.

Q. And a tonnage charge on the cargo handled?

A. Yes, I believe there is.

Q. Do you know whether that is a charge that was placed in lieu of top wharfage—a charge against the cargo?

A. I do not know the history of the charge—of those charges, I should say.

Q. Assuming that to be true would the absorption of steamship lines docking at railroad piers be for competitive reasons to meet the competition of what is happened at non-railroad piers?

A. I am not quite sure that I understand you.

Q. Let us assume that where there had been top wharfage at Philadelphia Piers, Incorporated, a charge against the freight, and that had been dropped and now a charge is made against the steamship line, that would mean then the

freight would have no charge such as top wharfage against it, is that right?

A. That is right.

Q. Let us assume, as you stated that the steamship line docking at a railroad pier, there is still a top wharfage charge being assessed against the cargo, is that correct?

A. Not to my understanding. It is now being paid by the shipper.

Q. Let us go step-wise on this. It is charged by the [fol. 1198] railroads against the cargo, is that correct?

A. At Baltimore?

Q. At Philadelphia, at railroad piers.

A. Well, it is based on the cargo.

Q. All right. And then it is absorbed, to your knowledge, by the steamship lines?

A. Yes, sir, that is our understanding.

Q. Does it not follow that absorption is to place those steamship lines on a competitive equality with the steamship lines docking at Philadelphia Piers Incorporated?

A. Whatever the reason for it is, Baltimore is placed at a disadvantage. What you are saying, may be so. I brought that out to demonstrate the same steamship lines are not absorbing it at Baltimore.

Q. Is it a fact there is no dockage charge at Baltimore?

A. Not quite. There is a dockage charge at certain piers at Baltimore.

Q. At railroad piers?

A. Not to my knowledge at railroad piers.

Q. Is it not a fact the dockage charge, the failure to put on a dockage charge is the reason why the railroads continue the top wharfage charge in Baltimore?

A. I would not say that.

Mr. Moerman: I am a little puzzled here. Is Mr. Kraemer [fol. 1199] cross-examining the witness?

Mr. Marbury: Very much so.

Mr. Moerman: This is a fight between Philadelphia and Baltimore.

Mr. Macleay: On a different case.

Mr. Kraemer: The problem is I am trying to clarify this top wharfage situation, which is quite mixed up at this

point on the record. It is not factually stated in the proper light.

I am trying to bring that out, that—

By Mr. Kraemer:

Q. In other words, have, to your knowledge, attempts been made to remove the top wharfage charge and in lieu thereof to place a dockage charge in Baltimore?

A. Have attempts been made?

Q. Yes, to change the top wharfage and put a dockage charge on.

A. I am sure there have been proposals of that type made, but whether they would be attempts.

Q. Well, proposals, then.

A. I am sure it has been approached or discussed.

Q. Is it not a fact the absorption or non-absorption of top wharfage is an attempt by steamshiplines to meet competition in Philadelphia and not in Baltimore?

A. That may well be, but as I say, I do not know the full background.

[fol. 1200] Q. In other words, you do not know the complete story of top wharfage in Philadelphia?

A. I know there is a top wharfage charge being absorbed in Philadelphia and not absorbed at Baltimore.

Q. At railroad piers?

A. At railroad piers only.

Q. But in the other part of the port you do not know the situation?

A. I understand there are charges made at other piers—being made.

Q. Top wharfage charges.

A. I do not know if they are called top wharfage.

Q. But against whom?

A. The ship.

Q. But top wharfage is against the cargo?

A. It is being paid for by the ship.

Q. Who pays the top wharfage charges in Baltimore?

A. The shipper.

Q. Who is assessed the top wharfage charge at railroad piers in Philadelphia?

A. Who is assessed them?

Q. Yes.

A. I understand the steamship lines are now being assessed. If you mean, are they being billed?

Q. All right, let us call it billed—are they being billed [fol. 1201] for it?

A. It is my understanding that the steamship lines are being billed for top wharfage charges at the railroad piers in Philadelphia.

Q. In other words, when a steamship line receives a bill and pays a bill properly rendered to them, they are absorbing something?

Mr. Marbury: Mr. Examiner, it seems to me the purpose of this examination is not being furthered as far as this case is concerned. I do not understand what this is all about. The point about it is that Baltimore had requested, if I understand this witness to say—that Baltimore, the port authorities specifically requested the steamship lines to absorb the same, or to except, if you please, the same charge that was excepted in Philadelphia, and the steamship lines said in effect if you put that charge on us, we will take the service away from you. We are not willing to pay the same cost of operation in Baltimore as we are in other ports.

Exam. Boat: Are you going to straighten us out on that?

Mr. Foley: This is just a speech.

Mr. Marbury: No, sir—

Mr. Moerman: Calm yourself. Don't testify.

Mr. Marbury: I am not testifying. I am rehearsing what is already in the record to show this examination has no [fol. 1202] relevance in this case.

Mr. Kraemer: I think it has because his story does not go far enough back in the history of this thing to bring out the whole question and that is what I am trying to do. There is a lot more of the history than just asking for an absorption.

Exam. Boat: Have you finished now, Mr. Kraemer?

Mr. Kraemer: That is all.

Exam. Boat: I think we will return to Mr. Moerman.

By Mr. Moerman:

Q. With respect to the traffic moving under rates in this proceeding by railroad to and from Baltimore, is a top wharfage charge assessed?

A. No.

Q. What then is the significance of your testimony concerning top wharfage?

A. Mr. Moerman, the purpose of the comments on top wharfage was to demonstrate at Baltimore labor is under certain handicaps and while the steamship lines are willing to pay very high prices for wharfage at New York and pay the special wharfage at Philadelphia, they felt there is special advantage to having someone else pay the top wharfage charge at Baltimore and our conversations were urging them to accord them the same as at Philadelphia, at comparable piers, the same piers. They have indicated they would withdraw their service before they did that.

[fol. 1203] Q. If I understand it, you want the steamship to absorb top wharfage traffic by motor truck?

A. Basically that is it, yes, sir.

Q. You mentioned the American export lines curtailment. Is it not a fact every year for the past five years there has been an increase in sailings via the Port of Baltimore?

A. I believe that is so, yes.

Q. Is it not a fact, for example, that from Baltimore to a port like LaGuira, in Venezuela, sailings have risen some 300 per cent or more in the last five years?

A. I would have to check our sailing records, but if you state so, I will agree.

Q. Do you know of any other curtailments from Baltimore, in addition to one of the ace vessels of the American export Lines, that you just mentioned?

A. I do not recall any immediately, no, Mr. Moerman.

Q. The top wharfage charge assessed at Baltimore—are they assessed uniformly by all terminal and pier operators engaged in performing wharfage services? Does everybody do it?

A. I believe it is a general practice, yes.

Q. Do you have city-owned piers?

A. Yes.

Q. Are there privately-owned piers in Baltimore?

A. Yes, there are.

Q. What type of pier predominates—what type of pier [fol. 1204] ownership?

A. Railroad-owned piers predominate at Baltimore.

Q. Is it the railroads who assess the top wharfage charge against motor carrier export and import freight?

A. Railroad owners of the piers assess the charges, not only against motor carriers, but also against the others I mentioned, even rail freight that does not pay a line-haul rate.

Q. But to the extent that rail freight pays a line haul, like the rail freight involved in this case, there is no top wharfage charge?

A. That is correct.

Q. Have you asked the railroads at Baltimore to consider eliminating the motor carrier charge on motor freight and rail freight not paying the line haul rate?

A. No.

Q. But you have asked the steamship line to absorb the top wharfage?

A. Yes, we feel that is a fair charge for the use of the pier. We feel that it is unfair the way it is being paid.

Q. You testified at the Port of New York the steamship line lease piers and pay rental for those piers. That is so, is it not?

A. That is correct.

Q. We agree on that.

With respect to the use of piers at the Port of Baltimore, [fol. 1205] do you know of any steamship line that leases a pier in Baltimore?

A. No.

Q. What is the general practice?

A. The general practice is to accord the steamship lines freedom—free dockage and really absence of charges for their berthing, docking at Baltimore. That is another inducement offered to keep them coming into the Port.

Q. With respect to the desired absorption of the top wharfage, what effect would it have if the steamship lines did agree to absorb the top wharfage, so far as the rates are concerned, or the cost to the shipper?

A. The cost to the shipper would diminish by that amount and the effect would be to make Baltimore more competitive with its neighboring ports in connection with this motor-borne cargo.

Q. Motor-borne cargo?

A. Yes.

Q. Do you know the relative differences in rates—well, I think I withdraw that question.

You testified concerning construction or lack of it—of general cargo facilities at the Port of Baltimore.

Did you give a reason for it?

A. I believe I stated that the business of general cargo pier construction at Baltimore, or rather, the business in [fol. 1206] the general cargo field did not appear sufficient for private operators to construct general cargo facilities.

Q. The converse is true, is it not, with respect to bulk facilities?

A. Would you restate that?

Q. The opposite is true, is it not, with respect to bulk facilities, that is, you have such a tremendous boom in bulk facilities that business is adequate for the construction of facilities of that kind at an ever-increasing rate in the Port of Baltimore?

A. I would not quite describe it that way.

Q. Not that enthusiastically?

A. No, by no means.

Q. Is there any port on the north Atlantic range which has bulk facilities superior to the Port of Baltimore?

A. Oh, definitely.

Q. What port?

A. What facilities are you speaking of, or what commodity?

Q. Generally, all facilities for handling so-called bulk commodities?

A. If you are interested in coal, for instance, I think you will find the facilities at Hampton Roads are superior to the facilities at Baltimore for handling coal.

Q. All right. Ore?

A. I would say the new ore-unloading dock of the Penn- [fol. 1207] sylvania Railroad at Girard Point is probably the finest on the Coast.

Q. From the standpoint of capacity, how does Baltimore compare with Philadelphia?

A. I do not think Baltimore had any public piers any one of which would be comparable to the capacity of the Pennsylvania pier.

Q. Taking Baltimore as a whole, is Baltimore inferior to any other North Atlantic port in the handling of bulk commodities, taking all your bulk facilities as a whole?

A. I would say we have good bulk facilities generally.

Q. Don't you have the most superior—aren't you the best in the country?

A. Not if you take them individually, Mr. Moerman. If you are thinking of grain, possibly the elevator at Albany is the biggest and best.

Q. Let me shorten it. At page 9 of the handbook dated 1957, Port of Baltimore, appears the sentence, "No other Port in the United States offers facilities equal to those of Baltimore for handling bulk cargoes of all types."

Do you agree with that statement?

A. If you took all types, I would be inclined to agree with that statement, yes, sir.

Mr. Moerman: That is all, sir, thank you.

[fol. 1208] Redirect examination.

By Mr. Marbury:

Q. You have testified steamship lines have offered special inducements, have offered no dockage charge service, and the steamship lines have indicated they would curtail their service if required to pay this top wharfage.

In your opinion is there any relationship between that fact and the fact to which you have previously testified that Baltimore is further from the open ocean than its competitor ports?

A. Yes, I believe the refusal of the steamship lines is based on the fact it is an additional day's steaming to reach Baltimore from the open ocean and they feel they have to have the advantage of not paying that top wharfage to justify their cost.

Q. Now, with respect to Boston—I will not say equal but Identical rates to Boston, you were asked the question by Mr. Miller as to what effect would be on the movement of bulk to Boston as compared with Baltimore, if the rates were identical.

Have you had any recent experience which would indicate to you what that effect would be?

A. During the past year when one of the large shippers agreed to absorb Baltimore's differential on one commodity we noticed a very sharp decline in our business and saw an almost comparable increase in the Boston business in that [fol. 1209] one commodity.

Q. What was that shipper?

A. The shipper was the Department of Agriculture and the commodity, of course, was the grain business—grain.

With a differential being absorbed by the shipper in this case our business declined almost 350 per cent and the business at Boston went up probably 300 per cent.

Q. Which would indicate that with identical rates Boston would have something which would draw the grain away from Baltimore?

A. I would say that would apply not only to the grain, but to the other bulk commodities which are handled at Baltimore in volume at this time.

Q. Do you think the other fact that you testified to—that is to say, the nearness of Boston to North European ports—might have any relationship there?

A. I feel that it would; if the inland rates were the same, I feel that it would definitely tend to influence heavier movements out of Boston.

Mr. Marbury: That is all.

Recross examination.

By Mr. Foley:

Q. Is Boston at a disadvantage compared to Baltimore in distances shipping, to the west coast of South America?

A. I have not checked the distance recently but I believe [fol. 1210] it is.

Q. How about the Far East?

A. I believe this is a small different factor to the Far East favoring Baltimore.

By Mr. Brandes:

Q. You point out that the principal reasons for the formation of the Maryland Port Authority is to provide a program for general cargo pier building.

Will you tell us what that program is at this time?

A. I said it was one of the principal reasons.

Q. I will take that.

A. And the program at this time is in a formative stage. We have no conclusive projects under construction at the present time.

Q. Are there any plans?

A. There is a great deal of planning, yes.

Q. Are you willing to state what is being planned?

Mr. Marbury: I think I am going to object to that.

Mr. Brandes: I will withdraw that. I have nothing further.

Mr. Marbury: It seems to me it is not at the stage where publicity should be given to such indefinite plans.

Mr. Brandes: I am not pressing it.

Exam. Boat: Does that conclude your questions?

Mr. Brandes: I have no further questions.

Exam. Boat: Does that conclude the questions?

(No response.)

[fol. 1211] Do you offer the exhibit?

OFFER IN EVIDENCE

Mr. Marbury: I would like to offer exhibit 99 in evidence.

Exam. Boat: Exhibit No. 99 will be received in evidence.

(Protestant's Exhibit 99 Witness Stanton received in evidence.)

Exam. Boat: You are excused.

(Witness excused.)

[fol. 1212] Exam. Boat: Mr. Macleay?

Mr. Macleay: I call Mr. Masson.

CHARLES A. MASSON previously duly sworn, resumed his testimony as follows:

Direct examination.

By Mr. Macleay:

Q. Would you state your name and address?

A. Charles A. Masson. My office is 105 South Frederick Street, Baltimore 2, Maryland.

Q. What is your business, Mr. Masson?

A. I am senior partner in the firm of William H. Masson, custom house brokers, freight forwarders and steamship agents. I am also president of the Baltimore Custom House Brokers and Freight Forwarders Association.

Q. Did you prepare and verify a statement which was filed and distributed in this proceeding?

A. I did.

Mr. Macleay: I ask it be marked for identification with the next number.

Exam. Boat: That may be marked for identification as protestant's Exhibit No. 100.

(Protestant's Exhibit No. 100, Witness Masson, was marked for identification.)

Mr. Macleay: You may examine.

Cross examination.

By Mr. Miller:

Q. On the top page of your statement, you say that it, [fol 1213] meaning the differential, would have to be much greater than it is today to place Baltimore in the position of being reasonably competitive with New York. How much greater do you think the differential should be in order to place Baltimore in the position of being reasonably competitive with New York?

A. In my opinion—from my experience in both importing and exporting, and handling vessels, that we see from time to time the vessels come into the port of Baltimore to pick up the bottom freight.

When I say bottom freight, I do not mean grain, I don't mean ore. I mean heavy machinery, steel and other commodities, pipe, which makes good bottom stowage, and then the vessel proceeds to New York.

In my opinion, if the differential is taken off out of that area which we now have, those vessels will not come in and we will not get the top cargo that we are getting, which is not sufficient to warrant carrying on, even at the moment.

Q. If the differential is removed, why wouldn't they come in?

A. Because if we have comparison with other ports, an equalization of the rates, from the testimony I have heard here, not to repeat it all again, then your commodities will move through New York because of the great advantages it has.

It is certainly the financial side of the world on the east coast, and in dealing with Letters of Credit or Letters of Credit specific payment in New York, and in a great many [fol. 1214] cases it says shipped via New York, even though the differential is in favor of Baltimore.

You have your other facilities. You have your speed vessels, your passenger vessels that carry freight, and if this is done I am sure we are going to lose a great deal of business that we now have in trying to hold on to it.

Q. Is that statement made on the basis of what you have heard here?

A. No, that is from some forty years of experience, or 39 years experience in my business.

Q. Do you mean by that the vessels would not come in for this so-called bottom freight?

A. They come in presently for bottom freight, which is subject to the differential at the moment. We have in the past year some eight or nine vessels for whom we act as agents.

When that bottom freight is cancelled, the vessel does not come in, and the other cargo we have booked has to be booked on other vessels.

Q. You mean there is no differential, but these rates at issue here are equalized, this bottom freight will not be loaded at Baltimore?

A. I am of the opinion from certain areas it will not. It will go to New York.

Q. A lot of these steel and pipe commodities, where do they come from?

[fol. 1215] A. They come out of the Pittsburgh area.

Q. And you think they will go to New York instead of Baltimore?

A. I am pretty confident they will.

Q. And be bottom-loaded there?

A. Absolutely.

Q. If the differential is abolished?

A. In my opinion.

Q. You say here at the bottom of page one and top of page 2, while Baltimore railroad advantage is naturally of some advantage to the port, and is practically our only selling point, it would have to be much greater than it is today to place Baltimore in the position of being reasonably competitive with New York.

How much greater would it have to be?

A. I could not go into— I think it has to be greater than its present status. The actual difference in percentage, I am not in a position to state. It has to be greater, in my opinion. It would help tremendously if it were greater. If it were removed or reduced, it is going to affect us by that much in the handling of freight through the port of Baltimore.

Q. Well, now—

A. I would like to extend that. I was talking to a shipper on Saturday afternoon. We were loading a vessel at Baltimore and he is moving a considerable amount of freight from Michigan, and he told me positively the only reason [fol. 1216] this freight is moving through Baltimore is because of the saving in the differential.

Q. Did that shipper have any advantages—would he have had any advantages in moving it out of any other port?

A. I could not say whether he would have any advantages. In this particular case that was his statement to me, and I

can only state what he told me. He said we are moving this here because of the differential.

Q. Suppose that shipper had considered moving it through New York, would he have had any service advantages or banking advantages?

A. I would say he would.

Q. At New York?

A. I would say he would have banking advantages at New York. But in this particular case the company that is shipping also has their properties and their manufacturing to be established in Brazil, and he could ship it through New York just as readily as he could through Baltimore, but he is saving that money by shipping it through Baltimore because of that differential.

Q. In other words, there was no banking involved?

A. No banking involved in this particular shipment.

Q. Would he have had any sailing advantages out of New York?

A. Oh, yes.

Q. This particular shipper?

A. Oh, yes. I think the records will indicate that New York tops any other port by quite a percentage to all points.

[fol. 1217] Q. Did this shipper need to expedite this shipment at all?

A. I could not say that, whether he needed to expedite it. Shipments are going to continue on. They are building a plant in Brazil to manufacture a product.

Q. But he can get adequate sailing service out of Baltimore?

A. He gets it at the moment. He says as long as you continue to have the sailing schedule you have, we will continue to use Baltimore because of the differential.

Q. So that the service was apparently satisfactory out of Baltimore?

A. This particular service, yes, to this port.

Q. I assume that this shipment did not move C.I.F., as you point out on page 3?

A. I don't know. I did not handle the documents on it. We were acting as agents for the vessel in this particular case.

Q. Was this substantially a full vessel movement?

A. No, it was a little over 300 tons of machinery.

Mr. Moerman: Of what, sir?

The Witness: Machinery.

Now, when you get into this—you brought attention to page 3, the second paragraph.

I go to Europe at least once a year, sometimes twice, and I go to South America at least once a year and try to sell the Port of Baltimore, and I am amazed when I go to Europe to see the number of people who ask me—it is very [fol. 1218] embarrassing, but they say, "How far is Baltimore from the Port of New York?" They set it up that way because they know that New York is the financial center of the United States, and they know they can get the maximum number of sailings and everything is on the basis of New York.

It is my contention to try to sell the point the differential is in your favor, but because the Letters of Credit in a great many instances specify solely New York, these people, the consignees abroad who issue the Letter of Credit, who are the final receivers of the merchandise, pay those additional expenses because they do not know.

The people in the United States could ship this if the Letters of Credit were issued otherwise. But they have their offices in the central part of the United States, and the export offices in New York, and it is a very simple matter to pass it from one office to the other at the expense of the consignee.

The differential is very important in that area, and if we cut out trying to build up, as Mr. Stanton said, the top freight to build piers and entice and have other people come in to ship top freight, which is the paying freight in the steamship business, we are going to have to have a certain amount of bottom cargo for stowage purposes, and you have got to have a certain amount of top freight for stowing the vessel properly, and that is where the money is—in the top freight.

Q. But do I understand you have difficulty selling Balti- [fol. 1219] more in these foreign places?

A. I don't have—

Q. Foreign places?

A. When I sit down and talk to them, I don't have the difficulty. In fact, in one visit to Europe last year I was able to switch 10,000 tons of material out of Baltimore, because of the differential.

Exam. Boat: When you say out of Baltimore, you meant through Baltimore?

The Witness: It came from inland and moved on through.

Exam. Boat: I see.

By Mr. Miller:

Q. Do you also find some resistance to moving this cargo on despite the differential?

A. No, I don't find any resistance. I think a certain amount of it is lack of education on the part of the people abroad. They don't understand the entire picture of the differential area and how it could be moved. I also think there is a big selling job being done by the steamship agents or the bankers themselves, trying to influence as much as they can people to move through New York.

Q. Baltimore has some differential under Philadelphia.

A. I suppose—I understand so.

Q. Does Philadelphia have service advantages that require that differential?

A. I could not answer that. I don't know.

[fol. 1220] Q. Do you meet any competition from the New England ports, particularly Boston?

A. No.

Q. How about Albany?

A. No.

Q. Do you—

A. Speaking now, personally, because we have no shipments either through Boston or through Albany.

Q. Do you need any differential to compete with Boston or Albany or the other New England ports?

A. I am not in a position to state that, frankly. I know we need a differential to protect our particular port, if we hope to survive.

Q. From differential territory, the Hampton Roads ports have the same differential that you have from Baltimore. Isn't that true?

A. Yes.

Q. Do you find the differential at the Hampton Roads ports takes traffic away from Baltimore?

A. I think that Hampton and Newport News are in the same position and maybe a little worse than we are, because they do not have enough sailings to take the cargo. I have a tremendous amount of freight from that area which is shipped through Baltimore because they do not have sufficient sailings at Newport News.

[fol. 1221] Q. But that is differential traffic.

A. I don't know whether it is or not.

Q. It does not come from this central states territory? A. It is coming from a territory closer to Norfolk than Baltimore.

Q. How about this central states so-called differential territory, do you find that Hampton Roads is competitive in your operations with Baltimore?

A. I could not honestly answer that. I don't ship enough stuff out of there, or follow their work closely enough, to be honest—I could not honestly answer this question.

Q. Do you ship much out of Central States territory?

A. We receive a lot of freight from the central states and we ship a lot of stuff into the central states.

Q. But in those movements, is Hampton Roads competitive?

A. I really don't know.

Q. Apparently it isn't, if you don't know.

A. You see, I am a freight forwarder and a broker. I don't go into the actual cost analysis, except in specific cases where the people will tell me these things and I cannot speak generally for the industry, whether it does or does not, unless we have specific cases. In the cases I spoke of, they are of my personal knowledge, and I could speak with authority on that.

Mr. Miller: That is all I have, thank you.

[fol. 1222] By Mr. Moerman:

Q. Mr. Masson, I take it that seven of your members are not strictly local, is that right?

A. I beg your pardon?

Q. Seven of your members are not strictly Baltimore local forwarders?

A. No. They have New York houses with branch offices in Baltimore.

Q. And they are members of your Association?

A. Yes, sir.

Q. Would you know about the seven who are not members of your Association?

A. Would I know of the seven members who are not—

Q. You say there are 22 forwarders.

A. Yes.

Q. Having offices in Baltimore. Your association has 15?

A. Yes.

Q. Of whom seven, you tell me, are New York houses.

A. No, no. Of the 15, eight of these—seven out of the 15 are New York houses. And then there is an additional seven who are not members of our Association, and they are strictly local people. For instance, there is a clerk in a trucking company that lives outside of town. He writes to the Federal Maritime Board and overnight they make him a freight forwarder and he puts out his shingle and hopes to get business.

Q. Your statement indicates you are speaking for the [fol. 1223] Association. Would you tell me in what manner you obtained authority to speak for the Association?

A. I obtained it from a meeting of the members themselves, when this came up, and we were notified this hearing was to be held. We had a meeting of our Association and they asked me as President of the Association to appear representing the Association.

Q. When was the meeting held?

A. Last year.

Q. Do you remember the approximate date?

A. I would have to go and get the records from the office. Frankly, I don't have them with me.

Q. Was the membership represented in its entirety?

A. A quorum was present.

Q. Were any of the New York members absent?

A. Yes, there were some of the New York members, and some were present. I would have to check the records to determine it.

Q. Have all of the New York members been apprised of this statement?

A. I could not answer that question. They were told we were coming here and they gave me authority to act for them.

Q. Would you look at page 2 of your statement, with respect to differences of sailing time in favor of New York, ranging up to nineteen days, and tell me with respect to these vessels where they begin to load for the outbound voyage?

[fol. 1224] A. Well, sometimes they begin at Baltimore. Then they—

Q. That is true in most cases?

A. I would not say in most cases. I don't know in most cases. I know of those instances where they start at Baltimore. I can only speak of those cases where we act as agents ourselves.

Q. What takes this time getting to New York?

A. From Baltimore they may go down to Newport News. Back up to Philadelphia and New York. Sometimes they go to Boston and then back to New York.

Q. What do they do when they are going from here to yonder?

A. I think that is a question I could not answer. I mean, I don't follow the vessel and I have no way of knowing what he does. I know it takes that period of time.

Q. Is it not reasonable—

A. It may have been held up by weather for all I know. We have vessels held in port by weather. We have one case of two vessels which left Cuba at the same time. One got in three days later than the other. It was a faster boat, but he got in three days later because he ran into storms.

Q. He ran into storms in Chesapeake Bay?

A. We have conditions—if you are talking about bulk cargo, we have conditions where a bulk boat will lay by for seven or eight days, waiting to load grain or coal.

Q. Because there are so many grain or coal boats in there you can hardly get in?

[fol. 1225] A. Oh, no, not so many grain or coal. You have conditions that arise where you can not get the vessels in. We have even to wait for coal to arrive.

Q. The congestion is fearful, isn't it, Mr. Masson?

A. I don't quite fo' ow your sarcasm.

Q. Why does a vessel wait six days to get into a dock?

A. Why does it wait?

Q. Yes.

A. The cargo may not be there. I am talking about bulk cargo. If you are talking about general cargo, that is something else. Now, which one are you talking about, sir?

Q. Bulk cargo.

A. Bulk cargo, it may be the cargo is not there. I have been agent for vessels where we have had to wait five or six days for coal, because the cargo was en route from the mine.

Q. How often has that happened in your experience?

A. It has happened at least three times on vessels we have been agents for, and—

Q. Over what period?

A. Over a period of a year. And I don't know how many others of the other boats that have arrived there have the same problem.

Q. Is it not a fact, sir, that the time consumed in getting to New York on a vessel which is ready for its outbound voyage is consumed in loading cargo at the particular ports, in general?

[fol. 1226] A. I am sorry. I couldn't hear a couple of words.

Q. Is it not a fact with the time consumed by a vessel, when it begins its outbound voyage is taken up in loading cargo at the particular ports?

A. Yes—that and weather, holidays, overtime payments. A lot of people do not want to pay overtime to work a vessel around the clock.

Q. Is it not a fact that weather is relatively a small factor in the time?

A. No, I would not say so. In the last two weeks, we have had a terrific time with delays because of weather.

Q. Does that happen in the summer season, you have delays?

A. Not particularly in the summer, but you can have rainy spells. I don't know whether you are familiar with

the labor problems. You have got to order your gangs in advance and if you don't order them until eight o'clock in the morning, you have to order them for one o'clock in the afternoon. If it rains at one o'clock, you have to release them and pay for four hours' dead time. The owners are familiar with those costs and they have to figure out whether they are going to delay the boat for a day or take a chance on the weather.

Q. How much of the business of your firm in the past year, take 1957, is concerned with the traffic involved in this case, which is to and from so-called differential territory.

A. I would say that dollar-wise now, that is, our [fol. 1227] brokerage fees and our income, I would say that it is about 35 percent on export, and about 25 percent on import, and I am just talking about our vessels and the balance is on agency of vessels.

Q. On what?

A. Agency of vessels.

Q. Agency of vessels?

A. That does not mean anything dollar-wise, because on export cargo we make the same amount of fee for handling one or two cases as we do for handling maybe 400 tons. It is a documentation fee.

Mr. Marbury: If you excuse my interruption, I am not sure the witness understood the question or answered it. It was how much went to central territory.

The Witness: I did not understand that—went to central territory.

By Mr. Moerman:

Q. The rates involved in this case involve traffic to and from differential territories. Are you familiar with the boundaries of differential territory?

A. Yes.

Q. As Mr. Marbury indicated, the question was concerned with traffic to this territory.

A. Oh, I misunderstood the question. On the export side of the office, I would say it would be about 25 percent.

Q. Does that pretty well obtain over the years or has it obtained?

[fol. 1228] A. Yes. Fortunately, our business has been remaining steady for several years. On the import side, a great deal of that goes into the differential territory because the people who are importers, most of our clients, or a great many of them, have their offices in New York and bring the merchandise to Baltimore so as to take advantage of the lower rates.

Q. What is the percentage of your total income?

A. I would say on the import side it would run 35 or 40 percent.

Q. Taking your export business, the 25 or 35 percent, which moves in greater amount, truck traffic or rail traffic?

A. Export, I would say of that percentage about 80 percent or more would run by rail.

Q. And import?

A. On import, going inland, I would say that it would be somewhere between 60 and 80 percent moved by rail.

Q. Now, the reduction proposed from New York, designed to equalize with the Baltimore rates, would, in your opinion, result in the stimulation of the movement of export and import traffic via the port of New York? Is that not so?

A. If the differential is removed from Baltimore, in my opinion it would stimulate movement, additional movement through the port of New York.

Q. And you understand that is why the New York railroads have proposed this reduction?

[fol. 1229] A. That is right.

Q. To get some of the traffic?

A. That is my understanding.

Mr. Langdon: Certain New York railroads?

Mr. Moerman: Yes, I beg your pardon. Some of the New York railroads.

Mr. Macleay: It is not that they want some. They want it all.

Mr. Moerman: The only ones we recognize as legitimate are those who propose the reductions.

By Mr. Moerman:

Q. Now, with respect to Letters of Credit, sir, how much of your total volume only to and from the affected territory moves on Letters of Credit?

A. Tonnage-wise, I would say that—well, I could not honestly answer that question, because I know that we handle a lot of letters of credit and I do not examine each one for tonnage or value, except that we handle a lot of letters of credit.

On some they are large shipments and on some small—a couple of thousand dollars. But I could not honestly and fairly answer that question.

Q. I am sympathetic, because it is not an easy question to give an answer to. What other forms of financing export and import traffic are you familiar with that are part of your firm's work other than Letters of Credit?

A. Ninety percent of our business is as a forwarding agent and we do not do financing for the people whatever. [fol. 1230] You are out in Ohio. You want to ship a thousand tons somewhere. You tell us what your problem is. We arrange the boxing, prepare the invoices and if you request us, we will prepare the drafts and file them with the bank of your choice and you get your check.

Q. The William H. Masson firm has no offices other than its office in Baltimore, is that correct?

A. That is correct.

Q. Are you engaged in foreign freight forwarding and brokerage only—in other words, you do not hold any freight forwarder authority from this Commission, do you?

A. From the Federal Maritime Board, only.

Q. You are registered with them but you have no authority?

A. That is right.

Q. From the ICC?

A. We make no rates, but are authorized in the preparation of documents.

Q. Where does your firm rank among the 22 forwarders in Baltimore?

A. Where does it rank?

Q. In the 22.

A. I think in honesty, integrity and ability, we rank first.

Q. Would you care to tell me where you rank in volume of business?

A. Well, I don't know whether you know forwarders, but [fol. 1231] they are the most secretive people I know. They don't tell you their trade secrets. I have no way of knowing what to tell you. I can only tell you if you want to check on me, you can contact Dun and Bradstreet.

Q. Mr. Masson, we have had Schipper on and other forwarders in Baltimore who have been good enough to give us some idea of the consist of their business. Would it be a violation of your trade secrets to tell me generally what kind of commodities you handle?

A. Well, on imports, I dare say we handle at least 85 percent of the sugar that comes into the port of Baltimore. On coffee—coffee has fallen off tremendously and we handle practically all of the imported coffee that comes into the port of Baltimore.

Q. What percentage, if you care to tell me, is the sugar at the present time? Is it the predominant part?

A. No, indeed.

Exam. Boat: Raw sugar.

The Witness: No, refined sugar.

I don't mind baring trade secrets. We get the same fee for handling 75,000 bags of sugar as for five cases of wool that arrives on the same vessel, because the documentation at the Custom House for entering is almost identical.

On exports, it is a little different. Your fees are based on does it require a license, consular invoices to a foreign country, and are there serious penalties in that country you [fol. 1232] may become involved in. It all depends on what you are talking about, what the fees or what fees our income is based on that. On export, we handle a great deal of steel going out. We handle a great deal of machinery. We handle a great deal of glass bottles, all of which move by rail.

Q. Are you one of the bigger coffee importers in the port of Baltimore?

A. We are custom brokers for, I would say, the leading coffee importers in the United States. One time we had

50- or 60,000 bags a month. Now, if we get 5,000 bags a month we feel we are lucky.

Q. Does coffee move westbound into the differential territory? Your coffee, the coffee you handle?

A. We don't forward it. I could not answer.

Q. How about sugar?

A. We just handle it at the port and get the permits at the pier. We don't forward that.

Q. What do you move by rail for these importers you represent to the differential territory?

A. I would have to check my records to give you a clear picture. I could tell you better on exports.

Q. Would you do that?

A. Machinery, steel, glass bottles.

Mr. Moerman: All right.

Exam. Boat: Would it be convenient to stop now?

[fol. 1233] Mr. Moerman: Yes.

Mr. Marbury: Could we finish with this witness? He is anxious to get away.

Exam. Boat: Do you have much?

Mr. Moerman: One minute. Maybe nothing. I think you hit me just about the time I ran out.

By Mr. Moerman:

Q. With respect to Letters of Credit, does your firm physically handle them?

A. We will not handle a shipment in which a Letter of Credit is involved for someone else, unless we get a copy or the original Letter of Credit in order to follow that properly for the people. The Letters of Credit are not made in our name, except in unusual circumstances.

Q. Do you do the leg work on the Letter of Credit?

A. Absolutely—

Q. Going to the bank?

A. No, because the majority of these Letters of Credit are in New York and we lose four or five days before the people get the money because of the delays in the mail and usual delay.

Q. You mail them to New York?

A. Yes.

Q. As soon as you get the clear on-board bill of lading?

A. As soon as we get the what?

Q. The clean on-board bill of lading.

[fol. 1234] A. And other documents necessary, consular invoices and whatever documents are required.

Q. And you do not know whether your customer has a bank account in the very bank in New York on which the Letter of Credit is drawn, do you?

A. No, we do not.

Mr. Brandes: I have just two questions, Mr. Examiner.

Exam. Boat: Very well, proceed.

By Mr. Brandes:

Q. Mr. Masson, I direct your attention to the statement appearing at the bottom of page one and the top of page two of your deposition, which says that the differential would have to be much greater than it is today to place Baltimore in a position of being reasonably competitive with New York.

Now, it is clear we are talking about the rail differential on shipments export and import, to and from differential territory.

A. Yes.

Q. In your opinion, would an equal amount of tonnage from differential territory on export and import traffic via Baltimore put Baltimore reasonably competitive with New York, assuming that the tonnage by rail through Baltimore was the same as New York? Would that put it reasonably competitive?

A. Are you saying if the rates are the same—

Q. No, I am talking of traffic now. You used the [fol. 1235] expression, "placing Baltimore reasonably competitive with New York." I am asking you to assume that the amount of tonnage from differential territory via rail on export and import traffic was the same, without regard to rate for the moment—that the tonnage was the same via Baltimore as it was via New York.

Would that place Baltimore, in your opinion, reasonably competitive with New York?

A. If we had the same amount of tonnage at New York as we had at Baltimore, with the differential—

Q. Forget the rate. I am just talking about tonnage.

A. Well—

Q. Leave the differential on. Assume you had the same amount of tonnage.

A. If we had the same amount of tonnage, we would still be in the same position for the reason—

Q. Would you answer my question? I am using your language of placing Baltimore reasonably competitive with New York, and I would like to know what you mean by Baltimore being reasonably competitive with New York. Would you say if it received the same amount of rail traffic from differential territory from New York, it would be reasonably competitive? I think that is clear.

A. I will answer you this way. At the present time, there is a differential in favor of Baltimore but the majority of the freight moves through New York.

[fol. 1236] Q. By rail?

A. By rail.

Q. From differential territory.

A. In my opinion, yes.

Q. All right—now—

Mr. Brandes: All right. That is all.

Redirect examination.

By Mr. Marbury:

Q. I have just two questions. In the light of your experience, can you tell us whether or not the port of Baltimore's distance from the ocean would affect the movement of freight through that port, as compared with the port of New York, if the rates were identical from the central territory?

Mr. Moerman: The witness has not been qualified, Mr. Examiner. He cannot even begin to answer that question. I object to it.

Mr. Welsh: Mr. Examiner, he has said he already knows nothing about rates and charges.

Mr. Marbury: About what?

Mr. Welsh: Except a specific instance, I believe.

Mr. Welsh: About rates—

Mr. Marbury: He has been in the steamship business all his life, representing steamship agents forty years. Let me withdraw the question and try once more.

By Mr. Marbury:

Q. You testified in your opinion if New York had the Baltimore rates the bulk business would be drawn away from Baltimore to New York.

[fol. 1237] A. That is right.

Q. Now, why is that?

A. Because the vessels will not spend the additional money to come down here if they can control the freight and give the same rates and have their main offices in New York. That is where the business is going to go. It is normal.

Mr. Marbury: That is all.

Exam. Boat: Are there any further questions?

(No response.)

Exam. Boat: You may be excused, sir.

(Witness excused.)

OFFERS IN EVIDENCE

Exam. Boat: Do you offer the exhibit, Mr. Macleay?

Mr. Macleay: I offer Exhibit No. 100.

Exam. Boat: Protestant's Exhibit No. 100 is received.

(Protestant's Exhibit No. 100, Witness Masson, was received in evidence.)

Exam. Boat: We will recess until two o'clock.

(Whereupon, at 1:40 o'clock p.m., the hearing in the above-entitled matter was recessed, to reconvene at two o'clock p.m. on the same day.)

[fol. 1238] AFTERNOON SESSION 2:00 p.m.

Exam. Boat: Let us come to order now, gentlemen, please.

Mr. Langdon: Mr. Examiner, there has been some discussion what is general traffic and what is bulk traffic, and it occurred to me, and I just mentioned this to Mr. Colgren, that the definition of general traffic and bulk traffic as contained in the two reports of the Port Authority of New York might be helpful.

I have, and I should like to have received as a statement of counsel, as the next exhibit, the annual report, 1955, Ocean-Borne Foreign Freight of the Port of New York, and as the next exhibit, Ocean-Borne Foreign Trade, Port of New York, 1956, published by the Port of New York Authority.

I have extra copies of each of them, sir.

Mr. Moerman: May I hear Mr. Langdon's statement? Please, would you read it?

Exam. Boat: Would you read it?

(Statement read.)

Mr. Langdon: And I might add to that statement that the definition in question appears in the 1956 report at page 26 and in the 1955 report, at—well, it is page 2. It is not marked as such, but it is page 2.

Exam. Boat: Yes.

Mr. Moerman: With the observation these terms used in these reports with respect to water-borne cargo, I cer-
[fol. 1239] tainly have no objection to the receipt of these reports.

Exam. Boat: Off the record.

(Discussion off the record.)

Exam. Boat: On the record. They can be identified as Exhibits 101 and 102. The earlier can be Exhibit 101.

Mr. Langdon: For the 1955 record.

Exam. Boat: Yes.

Mr. Langdon: No. 102 is for the 1956 report.

Exam. Boat: That is right.

(Protestant's Exhibits Nos. 101 and 102, Counsel Langdon, were marked for identification.)

Exam. Boat: We identified the last two exhibits, and I understand there is no objection to their receipt for the purpose for which offered.

Mr. Colgren: No, sir.

Exam. Boat: They will be received in evidence as Exhibits Nos. 101 and 102.

(Protestant's Exhibits Nos. 101 and 102, Counsel Langdon, were received in evidence.)

Exam. Boat: Mr. Meyer, would you call your witness?

Mr. Meyer: I call Mr. Mora.

MICHAEL M. MORA being previously duly sworn, testified as follows:

Direct examination.

By Mr. Meyer:

Q: Would you state your name and address?

[Tol. 1240] A. Michael M. Mora, Norfolk, Virginia.

Q. What is your position?

A. I am General Manager of the Norfolk Port Authority.

Q. Have you prepared a verified statement with certain exhibits attached for filing in this proceeding?

A. Yes.

Q. Has it been filed?

A. Yes, it has.

Q. Has it been distributed among the parties to the proceeding?

A. Yes.

Q. Do you have any corrections or revisions that you wished to make in it?

A. Yes. I would like to delete one sentence on page 21, right in the middle of the page; the sentence is as follows: "Many of them are owned or controlled by the railroads that have provided extensive port facilities and have made

large investments and special equipment to haul the coal." I would like to delete that sentence.

Exam. Boat: Very well, it will be done.

Mr. Meyer: May we have this statement, modified in that fashion, identified as Exhibit No. 103, I believe?

Exam. Boat: That will be identified as protestant's Exhibit No. 103.)

(Protestant's Exhibit No. 103, Witness Mora, was marked for identification.)

[fol. 1241] Mr. Miller: I will proceed.

Exam. Boat: I believe the railroads asked for cross examination of this witness also.

Mr. Colgren: Yes, Mr. Moerman will inquire.

Mr. Moerman: Mr. Miller, do you want to go ahead?

Mr. Miller: I don't care.

Exam. Boat: Well, you may go ahead, Mr. Miller.

Cross examination.

By Mr. Miller:

Q. On page 7 of your statement you say that, "We have found a large portion of the export business has been removed from competition by considerations other than rates and this business is valuable only to the Port of New York."

Suppose you would revise that sentence and instead of New York put in Hampton Roads; would the statement then be true?

A. I don't understand the question, sir.

Q. You see that statement I read, don't you?

A. Yes.

Q. Now, suppose that instead of—suppose you just take a pencil and scratch out "New York" and substitute "Hampton Roads," would the statement then be true?

A. In part, yes.

Q. And what do you mean by in part?

A. It would be true insofar as the coal traffic through Hampton Roads is concerned.

Q. How about the other bulk traffic?

[fol. 1242] A. I don't believe you could apply that to the rest of it.

Q. What would happen to the bulk traffic?

A. It would still be in the competitive position and probably in a not very favorable position.

Q. Do I understand, then, that this port differential works in different directions—that you cannot obtain traffic from New York because of it, but that you would lose the traffic if you lost the differential?

A. I did not say you could not obtain traffic from New York. I said that the statement would be only partially true. New York has many advantages over Norfolk. Norfork has only one very small advantage, and that is the rate differential.

Q. What do you mean in that sentence by "large portion"?

A. In a recent report which was made by the firm of Tippets, Abbott, McCarthy and Stratton—

Q. Let me ask you before you proceed, is that report here of record?

A. I don't believe so. I don't know that.

Q. Are you relying on that report for your statement?

A. No, I am just answering you the question and giving you what information I possess—it has been estimated the potential general cargo available to the Port of Norfolk was five million tons. We have never achieved one million tons.

Q. Then as I understand it, of the available general cargo, the port differential will only influence somewhat [fol. 1243] less than 20 percent of it. Is that right?

A. Well, it has in the past. I do not know what is going to happen in the future. I cannot project myself into it, but I do know that we have had tough sledding trying to solicit cargo, as against the great advantages other than rate, that the Port of Norfolk offers—the port and city of Norfolk offers to the shipper, both at home and abroad.

Q. Now, if the port differential were eliminated, would you lose all of that remaining less than a million—

A. I hope that we would not lose it all, but we would certainly lose some of it.

Q. How much do you think you would lose?

A. I have not the faintest idea. I would put up a tough scrap not to lose any but I don't know how much I would lose.

Q. But you don't know whether you would lose a little?

A. I am afraid it would be a lot. Compared to New York, it would be nothing if they lost 300,000 pounds but it would be a third of all our traffic.

Q. You don't have any basis for knowing whether it would be 300,000 tons.

A. Neither I nor anybody else alive does not know what would happen under those conditions.

Q. On page six, you mention a Norfolk port authority staff survey. Is that the survey you just mentioned, or is it some other survey?

[fol. 1244] A. It is a survey—no, it is another survey.

Q. What kind of a survey?

A. It is a survey made by our own organization.

Q. As I understand, that survey shows that you get five percent of a total of 100 percent—that is, the Hampton Roads ports, as a whole, get five percent of the total of 100 percent of the flow of manufactured exports. Is that right?

A. Yes, sir. But that is not true, as far as Norfolk is concerned. You are adding Norfolk and Newport News. I only speak for Norfolk.

Q. Yes. But I was adding the Hampton Roads ports.

A. I see.

Q. What is the origin of those exports?

A. Mainly the differential rate territory. Most of our southern traffic is in agricultural products and some of it in manufactured textiles—a very insignificant amount.

Practically all the manufacturing machinery, road building equipment, agricultural machinery and so forth comes from differential territory.

Q. Does all of that five percent traffic come to the Hampton Roads port on account of the differential?

A. I would imagine the differential would be a large factor.

Q. But you can't assess any measure to how large a factor it is?

A. I am bold enough to say that I or anybody else could not.

Q. Now, Baltimore has the same rate differential as Nor- [fol. 1245] folk and Newport News, does it not?

A. Yes, sir.

Q. How do you account for the fact if you have both the same differential Baltimore gets twice as much of this export traffic?

A. I think I could just about quote General Forrest and say they got there fustest with the mostest.

Q. Do you mean by that they have better facilities to invite the traffic?

A. They started energetically on the port development program and on the port cargo solicitation program long before there existed anybody in Hampton Roads who promoted its interests.

The Norfolk Port Authority was the first of its kind organized in Virginia, and we are only a little over seven years old. So we were latecomers and had the disadvantage of having others get in ahead of us, plus the fact we do not have as good ship sailings as Baltimore, to several parts of the world.

Q. I notice that New Orleans has almost as large an export traffic as Baltimore. Do they have a rate situation which pulls the traffic to them?

A. Yes.

Q. Philadelphia has only 3/10ths of one percent. Is that due to the fact that Baltimore and Norfolk have a rate differential that is a little better than the Philadelphia rate? [fol. 1246] A. I really cannot explain why it is so low, except that Philadelphia is characterized by serving more of its own economic area than some of the others, the other North Atlantic port areas. In addition I attribute it to New York's 67 per cent, rather than Norfolk's 2.6.

Q. Would you say that Baltimore was your most important competitor, as far as a port is concerned, other than New York?

A. To the north of us, yes.

Q. Well, is there any other port that is more important to you competitively than Baltimore?

A. Not for the purposes of this case.

We, of course, compete with the ports to the south of us—North Carolina, South Carolina and Georgia.

Q. That is for traffic from the Southern States?

A. From the Southern States, yes, sir.

Q. Do you have any competition from the New England ports, particularly Boston?

A. I have never come across anything of any significance. It seems that we are not competitive.

Q. How about Albany?

A. I do not know how much of a competition we might have from Albany.

I do not think we had in the past. Albany is a grain port.

Q. Yes.

A. We are only beginning to be a grain port. Our first major grain elevator operation is only a few years old and [fol. 1247] our last grain elevator was only built last year. So the effect of that grain movement at Albany cannot be evaluated yet.

Q. Doesn't a lot of that grain come from the South?

A. We get a considerable amount of local grain which would be non-competitive, but we are getting the bulk of it from the midwestern states.

Q. Would you not agree that from the standpoint of equalizing competition that perhaps some of these New England Ports, particularly Boston, would need as much of a rate advantage as Hampton Roads?

A. You are asking my personal opinion, sir?

Q. Yes.

A. I think that Boston should have the same differential against New York that we have.

Q. For the same reasons?

A. Maybe the reasons are not identical, but they are essentially similar.

Exam. Boat: You spoke a bit ago of having some competition with the Southern ports from Southern territory.

The Witness: Yes, sir.

Exam. Boat: Don't you have any competition from differential territory?

The Witness: Oh, yes, indeed. We have some competition in the differential territory, with the Carolina ports as far south as Savannah, but that is not nearly as large a [fol. 1248] volume of competition involved as the products of the textile mills, for instance, through Georgia, and particularly in the Carolinas.

We also have competition from Gulf Coast ports, particularly on differential territory. I was speaking of South Atlantic Ports before, the Gulf ports over there offer competition, also.

Exam. Boat: That is what I had in mind.

The Witness: The Gulf ports offer very serious competition.

By Mr. Miller:

Q. From your standpoint what is more important from the competitive standpoint, the level of inland rates to the ports or the port facilities that a port is able to offer?

A. I do not think you can compare them. Each one is important. It does you very little good if you are getting cargo due to your rates and did not have facilities to accommodate them. You would have to lose the cargo very soon.

Q. In the first part of your statement you go into the history of the differential adjustment and you state at the beginning of the adjustment lower inland rates were supposed to compensate for the higher ocean rates and then later, the ocean rates were equalized.

Suppose that the inland freight rates were equalized, would there be any possibility, in your opinion, that the ocean carriers might, following that, establish any differentials?

[fol. 1249] A. I really do not know. I have no idea what the carriers would do, but generally I find that those carriers are also shippers.

Q. And their rates will vary a great deal based upon competitive conditions, right?

A. That is right. But they will never pay anything they do not have to.

Q. If the ocean carriers found themselves faced with a possible loss of traffic out of ports other than New York, do you suppose they might revise rates to move traffic out of the ports other than the New York port?

A. Well, we have tried for a long time to get somewhere along these lines and we have drawn a blank.

Mr. Miller: That is all.

By Mr. Moerman:

Q. Mr. Mora, turn please to page 24 of your statement.

A. Yes, sir.

Q. The last sentence in capital letters reading "How greedy can they get?"

Do you include the New York Central Railroad in that sentence?

A. I intended to ask a question applying to all the New York interests participating in this hearing.

Q. You intended to include the New York Central Railroad in that sentence?

[fol. 1250] A. I think you know what I am driving at—I think I know what you are driving at.

I would not like to answer that question in that form.

Q. Does "They" include the New York Central Railroad, in that sentence reading, "How greedy can they get."?

A. I should say yes.

Q. Does it include the New Haven Railroad?

A. No.

Q. Why?

A. Because we are not in competition with them.

Q. Does it include the Erie Railroad?

A. I should think yes, in part.

Q. The Lackawanna?

A. I rather think not.

Q. Sir?

A. I think not.

Q. The Lehigh Valley?

A. I also think not.

Q. Look at that first sentence in the last paragraph on page 24, what railroads in the Port have prospered and

grown over the many years the differential has been in effect?

A. I am not an expert on New York railroads but it seems to me over a period of three quarters of a century, all of them have grown from rather small beginnings into tremendous systems.

[fol. 1251] Q. In your opinion which ones today are the prosperous ones?

A. Today?

Q. Yes, sir.

A. My opinion would not be worth very much on the subject, except I read financial papers and apparently they are not doing so well.

Q. Is it your opinion, if the differential was removed as here proposed they would do better—these New York railroads?

A. You are asking for my opinion?

Q. Yes.

A. My opinion is that they are not doing very well rate-wise now, because they probably are losing money on the rate at which they are carrying the traffic due to high cost, and they will lose some more if they drop the rate.

Q. If the rates are reduced, your opinion is they would not do better?

A. If they dropped the rate by 3 cents, they would just lose 3 cents more.

Q. Without regard to volume?

A. Well, if you lose 3 cents on a million tons and then you lose 3 cents on 2 million tons, you lose twice as much.

Q. What railroads operate from New York to Chicago—I beg your pardon, from New York to Chicago? —From Norfolk to Chicago.

[fol. 1252] A. None.

Q. What railroads operate from Norfolk into differential territory?

A. Part way or full way, the Virginia, and the Norfolk and Western.

Q. How about from Newport News?

A. C & O.

Q. Are you familiar with the connections of the Norfolk and Western and the Virginian into differential territory?

A. No, that is not my line.

Q. Have the railroads in the Norfolk area that you have named equally prospered and grown over the many years the differential has been in effect?

A. I believe they have.

Q. Mr. Mora, how long were you employed by the Colonial Trust Company of New York?

A. Just less than a year.

Q. And what were your duties as vice president?

A. Customer contact.

Q. Did you ever sit at a desk and open 100 or 200 letters of credit a day?

A. No, sir.

Q. Do you know whether or not on a letter of credit there is, in many instances, a line indicating the port via which the traffic is to move?

[fol. 1253] A. Most of the time you will have a designation, f.o.b. or via such and such a port. In some instances, you will have it at the discretion of the shipper, and in some instances, you will have it through any North Atlantic or Gulfport.

Q. On page 13 of your statement,—would you turn to it, please?

A. 13—yes, sir.

Q. Look at the bottom of the first paragraph.

In connection with letters of credit, have you, in the past fifteen years known of any case where a bank approving a letter of credit also insisted upon being secured by the cargo in question?

A. Letter of credit, no.

That usually happens if the shipment is on a draft.

Q. Tell me the last case you ever heard about where any type of an export-import shipment was secured by the cargo in question, whether by some type of chattel mortgage, or any other type of document—any single case in your whole experience?

A. I cannot tell you that. Over a period of years, you run across so many experiences, and when you try to point up one case, I just do not—I do not think that I can point out one particular case.

Q. Do you know of any other case in your entire business experience where, in connection with an export-import ship-
[fol. 1254] ment, the cargo was sold to satisfy a loan made by a bank, or credit advanced by a bank?

A. I have heard of a number of them, but I cannot remember a single particular one at the moment.

Q. What bank in the United States is the most prominent with respect to letters of credit, and the financing of imports and exports?

A. Excuse me, I did not hear you.

Q. What bank in the United States is the leading bank with respect to letters of credit and financing of imports and exports?

I should ask you more fairly during your experience as vice president of the Colonial Trust Company of New York did you have occasion to learn what bank or banks are the leaders in this country in the business of authorizing or receiving letters of credit or extending credit for the foreign trade of the United States?

A. I know some of them. The first one of course is the Bank of America, California, the largest bank in the world.

Q. Your testimony is that bank ranks No. 1 in the matter of financing exports and imports?

A. I am not testifying to that effect because I have not received reports from the bank to that effect, but I presume that would be the case.

[fol. 1255] Q. One of the largest?

A. It would certainly be one of the largest. Then of course there is the Chase Manhattan Bank, the First City National Bank, the Irving Trust Company, Chemical Corn Exchange and the Guaranty Trust Company.

Q. Where did the Colonial Trust Company rank in that hierarchy?

A. 'way down at the bottom.

Q. Prior to your employment by the Colonial Trust Company, were you previously employed by any other bank in its foreign trade department?

A. No.

Q. Have you since been employed by any agency in its foreign trade department—a banking institution, I mean?

A. I have had a great deal of experience in various other forms of the financial business.

My career in the bank has been a very short one.

Q. Is your employment at present that which you testified in the statement before us? Are you still employed as indicated in the statement?

A. You mean?

Q. Presently.

A. As manager of the Norfolk Port Authority.

Q. Yes.

A. I am. I would not be here if I were not.

[fol. 1256] Q. Were you in the hearing room, Mr. Mora, when Mr. Hamill was on the stand testifying with respect to his exhibits purporting to show sailings from various North Atlantic reports to and from?

A. Who?

Q. Mr. Hamill.

A. I do not believe I was here.

Q. You were not here.

These figures on page 7 of your statement with respect to steamship service—you have it, sir, page 7?

A. Yes.

Q. Are the figures shown at the bottom of page 7 the result of an analysis as indicated on the next page of your journal of commerce newspaper issues?

A. No, the figures that are shown at the bottom of page 7 are the official statistical figures of the sailings as part of the New York Steamship Association and the Hampton Roads.

Q. I beg your pardon. I did not get the name of the first one.

A. New York Steamship Association.

Q. New York Steamship and—

A. And Hampton Roads Maritime Association. That is the equivalent of the steamship association.

Q. Yes. Mr. Mora, do these figures at the bottom of page [fol. 1257] 7 include all sailings to and from Norfolk and Newport News and all sailings to and from the Port of New York, without exception?

A. I do not know that.

Q. Sir?

A. I do not know that.

Q. You do not know that?

A. Those are the official statistical figures that I read and I have to believe them.

Q. Then you made no segregation between so-called bulk cargo vessels and other vessels, did you?

A. Not on this particular paragraph or page, although we deal with that every day.

I should say in a general way that about two-thirds of the steamship arrivals and departures in Hampton Roads are collieries.

Q. What is a colliery?

A. It is a ship that comes, loads with coal and takes the coal to destination.

Q. Turn, please, to page 8 of your statement.

I invite your attention to the small chart at the bottom of the page. Could you tell me whether or not the advertised sailings there shown include vessels which are bulk as well as other types of vessels?

A. No, sir.

[fol. 1258] Q. In general, what types of vessels, if you know, Mr. Mora, then advertise their sailings?

A. Usually your general dry cargo ships.

Of course I am not including passenger ships.

Q. Well, I was going to ask you that. Do passenger liners invariably advertise their sailings?

A. They certainly do but I am not citing them, because they are not in competition with us. We do not have any passenger vessels.

Q. Turn to page 12, please. My information is that banks that have this foreign trade departments and handle large volumes of letters of credit simply approve or disapprove those letters and they do not attempt to influence the shipper in connection with the designation of a port.

Is your information to the contrary?

A. I have heard of many cases where it has been to the contrary, although it is never done in an obvious or an open way. It is rather indirectly influencing.

Q. Explain—

A. Advice, if you will.

Q. Explain to help us out, how that comes about?

A. I think I have the whole explanation here in this chapter.

Q. On page 12 I call your attention to the material on the top of the page where you say the big foreign departments of the huge New York banks are able to attract and [fol. 1259] channel export financing and the designation of the port of shipment by the simple expedient by having the words "f.o.b." New York, appear on the letter of credit. Tell me how that comes about in any case within your knowledge.

A. In very many instances when a shipper or receiver consults the bank, he is not an expert on letters of credit or how to write them up.

He comes for advice and the banker advises him how to fill out the letter of credit and sometimes if they want to render an extra good service, they will actually fill out the letter of credit for him while he is in the bank and if he asks what about my shipping port, he says, well you might as well make it New York, unless there is some specific advantage why you should not.

It is not any direct influence but it is a very strong, contributing factor and it is quite obvious the greater availability of these facilities and the availability of the large financial resources enables these banks to handle any volume of it.

Q. Do you know of any specific cause where a bank advised a shipper to put in the words "f.o.b. New York" on a letter of credit?

A. (No response.)

Q. Do you know of a single case, a single instance?

A. (No response.)

[fol. 1260] Q. Is it not a fact that quite the contrary is true, that the banks have nothing to do and are not interested in and will not indicate what port the traffic should move through?

A. May I answer this question indirectly?

Q. Well, let us try it: Go ahead. See how indirect you can get.

A. I can get very indirect. I can go to New Orleans, where I have spent a good many years and worked there

in this business and at one time I sent a letter to every foreign bank and to every foreign branch of every foreign bank in the world advising them that there are three good banks in New Orleans with foreign departments, that they are doing business mainly through New York and that we are calling their attention to the fact that such cargoes as might go to the Mid-Continent more advantageously through New Orleans than through any other ports can be financed, letters of credit can be opened and clearings can be made through these three banks and we urged them to consider it. I believe, if I remember correctly that I sent out over 3,000 letters. I got 102 replies in which they said "Thank you very much for the valuable information we placed on file—" and to the best of my knowledge not a single piece of business resulted from it.

Q. It is true, therefore, the banks at Norfolk and New Orleans do try to influence the designation on the letter of credit of the ports of Norfolk and New Orleans respectively?

[fol. 1261] A. That was not a bank deal. I was World Trade Director of International House at the time and was International House did that.

Q. The point I am driving at is whether New York banks which have branches all over the country have in any case to your knowledge, any single case, ever in any way, direct or indirect, attempted to get the shipper to put "Via port of New York" on a letter of credit?

A. I do not think I can cite you a case, but I am convinced influence is there, and a very strong one.

Q. Mr. Mora, would you turn to page 20, please.

A. Yes.

Q. So far as the matter of banks advising shippers with respect to ports of import and export, is it not true that advice from a bank is generally sought by a shipper who is a relatively small operator and all the large ones know all the ropes in the import-export business?

A. I reckon that is true. It has not always been the case.

Q. On page 20 you tell us from 1935 to 1955 New York increased its handling of bulk items about four times and Norfolk about 31 times and then you go on to give us the

relative tonnages, 18 million tons for New York and 17 million tons for Norfolk.

Your authority is Norfolk Port Authority Exhibit No. 10. Could you tell me with respect to either block of tonnage to what extent these cargoes moved via rail to and from the [fol. 1262] differential territory involved in this case?

A. I have no means to answer that question, in so far as New York is concerned, but I daresay it is practically all rail movement in so far as Norfolk is concerned.

Q. All what, sir?

A. All rail.

Q. All rail?

A. Because that bulk is almost all-coal and coal almost always moves by rail.

Mr. Myer: It is not virtually all rail to differential territory.

The Witness: Not to differential territory. We are talking of bulk.

Mr. Myer: I think that is what Mr. Moerman asked.

By Mr. Moerman:

Q. State it again. I do not have it clearly.

A. Of the tonnage you cite, practically all is coal and practically—not practically—all coal moves by rail.

Q. I see. As Mr. Myer pointed out, there is some question whether it moves to or from differential territory.

A. Well, coal moves from Virginia and West Virginia.

Q. Is it not a fact that the 18-ton figure for New York may be largely petroleum, locally consumed?

A. I imagine a substantial part of it would be, yes, sir.

[fol. 1263] Q. Did I ask you whether or not, in your opinion, the equalization of export-import rates here sought by certain of the New York railroads would, in your opinion, stimulate traffic via those roads?

A. I imagine it would, yes.

Q. It is your opinion that it would?

A. And I am afraid that some of it would be at our expense.

Q. Turn to page 22, please.

A. 22?

Q. Yes.

A. I have it.

Q. Could you tell me how much cargo capacity, either in cubic or in tons or any other measure with which you are familiar the vessel, the UNITED STATES, is able to load?

A. It is not a cargo carrier.

Q. Is the same true of THE AMERICA?

A. Yes, sir.

Q. INDEPENDENCE?

A. Yes.

Q. And the other vessels you name?

A. The so-called ocean liners are not cargo-carriers but the mixed cargo and passenger ships are.

Q. Combination passenger and cargo ships?

A. Yes.

Q. On page 23, why is it that the local terminal operators, [fol. 1264] as you contend, can not collect adequate revenues for the use of their facilities?

A. Pardon?

Q. Why can not they collect adequate revenues at Norfolk for the use of terminal facilities?

A. Because the steamship lines will not pay. We have no dockage and no sheddage.

Q. When you say no dockage, do you mean no charges for those services?

A. The ships do not pay a plugged nickel for the use of multi-million-dollar piers.

Q. Owned by whom?

A. The railroads.

Q. Is it because the ships will not pay or the railroads will not charge—only if you know?

A. I think it is six of one and a half dozen of the other. We have tried to influence both sides of the equation, to establish charges and have been failing dismally in the attempt.

Q. Referring now to this proceeding you talk about on page 23 before the Federal Maritime Board, Docket 816, has that been initiated on your petition?

A. On the petition of the Virginia State Port Authority, our sister organization. We are in the case.

Q. Do you plan to participate actively in the case?
[fol. 1265] A. Oh, yes.

Mr. Moerman: That is all.

By Mr. Brandes:

Q. Mr. Mora, would you agree that Norfolk competes with Baltimore for traffic from the differential territory?

A. Yes, sir.

Q. Would you agree that Norfolk gets substantially less traffic from differential territory than Baltimore?

A. Yes.

Q. Could you tell me, and would you agree, that an important factor in the lesser traffic coming to Norfolk is the superior services which are available in Baltimore?

A. By "services," you mean, sir, just what?

Q. I mean the very things you mention in your deposition by services.

A. You must specify or I will specify, steamship service.

Q. I mean banking services, steamship services, freight-forwarder services, all of those items which you take into consideration which influence the flow of traffic?

A. I would say they are somewhat better in Baltimore than in Norfolk.

Q. You testified to Boston's need for a differential under New York. Would it follow on that basis Norfolk needs a differential under Baltimore, to overcome the superior services of Baltimore?

[fol. 1266] A. I did not speak and I am not entitled to speak for Baltimore. I am here on behalf of Norfolk and Norfolk only.

Q. I am asking you to speak for Norfolk. I am asking if Norfolk would need a differential under Baltimore by reason of the better services rendered in Baltimore?

A. I am against it.

I think what we are going to do and what we are doing and I hope we will succeed is improve our services and compete with Baltimore on an equal basis.

Q. Why did you unhesitatingly give us an opinion on Bostor need for a differential and hesitate to give an opini for Norfolk differential?

A. We have got it.

Q. I mean the neighbor port. You compete with Baltimore, too.

A. Yes.

Q. And Baltimore has better services overall than Norfolk?

A. Yes, but not so much of a difference that we can not face that competition on the basis of better and improved performance.

Q. How much greater traffic comes from differential territory to Baltimore than comes to Norfolk, do you know?

A. I should imagine about 50 per cent more.

Q. If the figures were five million tons, rounded out, as compared with one million tons, would that surprise you? [fol. 1267]. A. Very much.

Q. And if those figures are correct, would it be your opinion that Norfolk needs a differential under Baltimore?

A. No, it would be my opinion that a couple of other guys and I should be fired.

Mr. Moerman: You are out of a job.

Mr. Brandes: Nothing further.

Exam. Boat: Is there any further cross?

By Mr. Hanifin:

Q. In exaluating or making so many answers to the last questions that have been put to you, did you have in mind the difference in differential territory, geographically, for Baltimore and for Hampton Roads?

A. I am not quite clear on the meaning of that question.

Q. Is it not true that Baltimore has a larger differential territory than the differential territory which is accessible through Hampton Roads?

A. I believe so.

Q. Would that be a reason for a larger amount of tonnage moving through Baltimore than through Hampton Roads?

A. It would be one of the reasons. I would like to call your attention that Baltimore has certain central and south American steamship services that we lack, and that does have something to do with the case.

Mr. Hanifin: That is all.

Exam. Boat: Redirect?

[fol. 1268] OFFERS IN EVIDENCE

Mr. Myer: No redirect.

I offer Mr. Mora's statement in evidence as exhibit No. 103.

Exam. Boat: That may be received.

(Protestant's Exhibit 103 Witness Mora received in evidence.)

Exam. Boat: Off the record.

(Discussion off the record.)

Exam. Boat: On the record.

We will recess at this time until 9:30 tomorrow morning.

(At 3:05 p.m. the hearing was adjourned to resume at 9:30 a.m., March 26, 1958.)

[fol. 1269]

BEFORE THE INTERSTATE COMMERCE COMMISSION

I & S Docket No. 6615

FSA Docket No. 32204

[Title omitted]

Wednesday, March 26, 1958.

Met, pursuant to adjournment, at 9:30 o'clock a.m.

Before: Marion L. Boat, Examiner.

APPEARANCES:

(As heretofore noted.)

[fol. 1271]

PROCEEDINGS

Exam. Boat: Come to order, please, gentlemen.

Mr. Keenan: Mr. Examiner, you may recall that I had asked to examine Frederick Mann, from Philadelphia, and concerning that I received a letter from the Assistant City Solicitor of Philadelphia, dated March 21, 1958, in which he advises me that Mr. Mann did in fact send a telegram

to the Secretary of Agriculture, with respect to the pricing policy of the Commodity Credit Corporation.

Mr. Pinsky got in touch with the legal department of the B. & O. to find out whether they would agree to put this telegram in without making it necessary for Mr. Mann to come down from Philadelphia to authenticate it. They advised him it was all right. I checked with Mr. Bongartz. I understand he has no objection, and neither do the Norfolk interests.

Therefore I should like to tender both for identification and receipt in evidence a one-page document, a telegram dated December 6, 1957, addressed to Ezra Taft Benson, and signed Frederic R. Mann, Director of Commerce. I have distributed copies of it to everyone here, and if anybody wants some more, I have some more here.

That is the telegram Mr. Pinsky wrote me about, and I am myself personally satisfied that that is the document that Mr. Mann received.

Exam. Boat: Is that in accordance with your understanding?

[fol. 1272] Mr. Bongartz: Yes, sir.

Mr. Keenan: It was with the understanding that the document would be received in this fashion that I agreed with Mr. Pinsky that it would not be necessary for Mr. Mann to come down here to testify in accordance with the undertaking that counsel had made with me heretofore.

Exam. Boat: There seems to be no objection. It will be received as Respondent's Exhibit No. 104, Witness Mann.

(Respondent's Exhibit No. 104, Witness Mann, was identified and received in evidence.)

Exam. Boat: I think the next order is Mr. Heywood's cross-examination?

Mr. Bongartz: Mr. Heywood.

Exam. Boat: The witness has been sworn and we have identified his exhibit as No. 50, I believe.

Mr. Bongartz or Mr. Heywood, do you have an extra copy of your Heywood Exhibits No. 1 and 2—would you, by any chance, have an extra copy of it?

Mr. Bongartz: There are Exhibits No. 1 and 2, and No. 1 and 2, revised.

Exam. Boat: I would like the last.

Mr. Bongartz: Are you referring to just Nos. 1 and 2?

Exam. Boat: No, of the revised; the complete revised.

Mr. Bongartz: I want to get that clear again. You want Nos. 1 and 2, the original and revised, or just the revised? [fol. 1273] Exam. Boat: The revised sheets replace the original sheets.

Mr. Bongartz: That is right. Here is No. 1, revised, and No. 2, revised. What about the correction sheets on No. 2?

Exam. Boat: Those were the second revised sheets you referred to?

Mr. Bongartz: Yes.

Exam. Boat: I would like that, also, please.

Mr. Bongartz: Before Mr. Heywood is cross-examined, I would like to make a reference in the record to a letter to Mr. Heywood by Mr. Colgren, under date of February 20, 1958, which was the subject of some discussion at the first hearing.

I think the record should show that subsequent to that time, I wrote to Mr. Colgren, with a copy to you, sir, and at that time furnished Mr. Colgren with a set of working papers underlying the out-of-pocket cost exhibits, which were, I think, Exhibits No. 3 and 4, attached to Mr. Heywood's Exhibit No. 50, and at that time advised Mr. Colgren that because of Mr. Heywood's occupation in another proceeding, that upon his return they could talk about the other matters contained in Mr. Colgren's letter, in which he requested certain information.

Subsequent to then, as I understand it, Mr. Colgren and his cost man went to Baltimore and examined the papers in possession of the Baltimore & Ohio Railroad, which were referred to at the end of Mr. Colgren's letter of February 20th, and also including material of the Jersey Central and Staten Island, and then Mr. Colgren's cost man, Mr. [fol. 1274] French, talked to Mr. Heywood.

Mr. Heywood gave him figures to the extent that he had them available, as requested in Mr. Colgren's letter, and then Mr. Heywood confirmed the information given over the telephone to Mr. French by a letter dated March 19th, a copy of which was sent to you, sir.

I just think that is a matter of background to have in the record.

Now, at the last hearing, Mr. Langdon stated that he would undertake to price out additional commodities for the purpose of our cost studies and that has been done, and two exhibits, with accompanying statement, have been distributed to all parties. The statement is entitled "Supplementary Statement by Witness J. L. Heywood", and referred to in that statement are two exhibits JLH-5, having to do with import traffic terminating in differential territory via the port of New York, and JLH-6, covering export traffic originating in differential territory via the port of New York.

What would be your pleasure with respect to the supplemental statement of Mr. Heywood which accompanied these two exhibits? This is not a verified statement. On the other hand, to follow the procedure that we have followed in this proceeding, possibly we could have Mr. Heywood identify this statement and have it marked likewise as his previous statement was marked.

[fol. 1275] Mr. Colgren: Or we could make it—

Exam. Boat: We could handle it as a supplement to the other one.

Mr. Colgren: Yes.

Mr. Bongartz: Do you want to make it Exhibit 50-A or something like that?

Mr. Colgren: That would be easier to keep track of.

Exam. Boat: Those are commodities shown in addition to the ones on Exhibits 3 and 4?

Mr. Bongartz: Yes, sir. You will recall there were two types of cost studies put in. The last studies, 3 and 4, had to do with out-of-pocket costs.

Exam. Boat: That is right. I think we might identify that as Exhibit No. 50-A, the statement and the tabular matter.

This tabular matter is also to be admitted?

Mr. Bongartz: Yes.

Exam. Boat: Altogether, it will be No. 50-A, protestant's Exhibit No. 50-A, witness Heywood.

(Protestant's Exhibit No. 50-A, Witness Heywood, was identified and received in evidence.)

J. L. Heywood having been previously duly sworn, resumed and testified as follows:

Direct examination.

By Mr. Bongartz:

Q. I show you the statement entitled Supplementary [fol. 1276] Statement by John L. Heywood, which has been marked as Exhibit 50-A, as your statement. You prepared it?

A. Yes.

Q. Is it true and correct to the best of your knowledge, information and belief?

A. Yes.

Q. Does that likewise apply to the two exhibits that you referred to?

A. That is right.

Mr. Bongartz: May the record show, Mr. Examiner, that there are present in the room officials of the Reading Railroad, Baltimore & Ohio Railroad, Western Maryland Railroad, and Canton Railroad, who participated in the preparation of these cost exhibits to the extent that their individual railroads were concerned.

I say this so that if we get to a point where a question might pertain to one of those particular railroads, which would not probably be within Mr. Heywood's personal knowledge, that these men are present and are prepared to answer such questions.

Exam. Boat: Thank you.

Mr. Bongartz: Also, possibly to clarify the situation and maybe save time, in the long run, it should be understood, and I think possibly it is, from what already has been said in the record, that the information regarding traffic [fol. 1277] movements which Mr. Heywood undertook to price out, cost-wise, were furnished to him by Mr. Mollman, who was a witness in this case and who is likewise here and prepared to answer any questions along those lines.

Mr. Colgren: Shall I proceed, Mr. Examiner?

Exam. Boat: I think we are ready to proceed.

Cross examination.

By Mr. Colgren:

Q. Mr. Heywood, in developing the port terminal costs at New York on the Pennsylvania Railroad, you developed the costs separately for yard costs, station costs, float bridge costs and marine costs. Is that right?

A. That is right.

Q. You charged the export and import traffic on a per-car basis from the yard costs, the car float portion of the station cost, the car float portion of the float bridge cost and the car float portion of the marine costs, is that right?

A. Insofar as car floats is concerned, yes.

Q. I don't think I understand your answer. I am just trying to get squared away on the procedure that you followed, Mr. Heywood.

You actually segregated and distributed on a per car basis the yard costs, the car float portion of the station cost, the car float portion of the float bridge cost and the car float portion of the marine cost. Is that right?

A. That is right.

[fol. 1278] Q. The balance of the costs, the lighterage freight portion of the station cost, the trucking, in lieu of the lighterage portion of the station costs, the trucking in lieu of the lighterage portion of the float bridge cost, and the lighterage portion of the marine cost and the trucking in lieu of the lighterage portion of the marine cost were treated on a per ton basis?

A. That is right.

Q. Then, in developing the costs you segregated the expenses into three general classes—first, box car, general cargo; next, box car, grain; and open-top equipment. That is right, is it not?

A. That is right.

Q. Now, then, the costs for box cars, grain, differed from the cost for box cars of general cargo in that the box car grain included grain elevator costs and excluded truck in lieu of lighterage and car float costs, and the switching and station costs are much less for grain than they are for the general cargo. Is that right?

A. I believe that is correct, yes.

Q. Now, the costs charged to the open-top equipment differed from the costs charged to box car general cargo in that the open top equipment was not charged with either trucking in lieu of lighterage or car floatage costs.

A. I don't know whether that was the whole cause of it. [fol. 1279] It is different in handling open-top freight than it is box car.

I may have some other element in there beyond what you state.

Q. What I stated was correct as far as it went?

A. That had something to do with it, yes.

Q. Also station cost charged to open-top equipment was generally less than that charged to the box car, general cargo?

A. That is right.

Q. In apportioning the box car general cargo on expenses, you weighted all of the costs chargeable on a car and a per ton basis and arrived at an uniform per car and per ton cost for all export and import traffic combined, is that right?

A. Are you still talking about terminal?

Q. No, this is the whole apportionment.

A. The whole total?

Q. Yes.

A. As far as line haul is concerned, that is true.

Q. No, this is port and terminal.

A. You are talking about box car traffic, as I understand you.

Q. No, all the traffic.

All I am driving at, Mr. Heywood, is for the sake of the record to establish that you apportioned your general cargo expenses and you charged them on a per car and a per ton basis and arrived at a uniform per car and per ton cost for all export and import traffic combined. Isn't that right?

[fol. 1280] A. Well, it is according to the equipment, as I recall it. According to the equipment, according to the commodity, how far certain expenses were allocated on a per car basis.

Q. Yes. Well, we are not—

A. Your statement is so general that it seems to include being a fact for every commodity. That I cannot subscribe to exactly.

Q. Can you point to some exception where you made your application of the costs?

A. Well, take car lots, we had no tonnage in there.

Q. No,—and I think we are not talking about the same thing.

I am just trying to get established that you have apportioned the various terminal costs on a per ton and a per car basis, as we covered previously.

A. Taking the whole traffic of export-import?

Q. That is right.

A. Yes, I would say yes to that.

Q. And then you established a uniform per car and per ton basis?

A. That is right.

Q. And you applied that to the various commodity movements shown in your exhibits?

A. Where applicable.

Q. Well, can you show me some place where it is not?

A. I say any place where anything went over a car float [fol. 1281] did not get into the ton situation. You get into the ton when you get into the lighterage.

Q. Well, perhaps we ought to refer to your exhibit, and you indicate to me where the general application was different for some specific commodities. I don't quite follow you, Mr. Heywood.

A. Well—

Q. Would you mind referring to your—

A. I don't know that I can pick out a specific commodity, as to whether it was on a ton or mile.

On a line haul, yes, we have both ton and car. I agree on that.

Q. Yes, now, in your port costs, and that is what I have been referring to all along, you have applied, is it not true, for the various types of traffic—that is, as between open-top, grain and box car, general, certain uniform per ton and per car units of expense. Is that not true?

A. Yes, that is true, where we made the special study of the yards, and the marine service, and—et cetera, as you stated in the beginning.

Q. No, I am not getting through to you, Mr. Heywood.

I want to establish for the record that you have, in applying these costs in these exhibits to the specific commodity movements therein, under the heading of port costs, you have taken the unit per car and per ton costs developed [fol. 1282] in your underlying work papers, for the various categories, box car, general, open-top, and box-car, grain, and applied those unit figures, per ton and per car, to these particular shipments shown in your exhibits?

A. Yes, I have taken the factors I have developed there and applied them to various commodities, according to the situation as they existed.

Q. Well, I don't understand your last qualification. Wherein do these units differ by any particular situation?

A. As I stated, if it was moved across through the yard in a car, and right across the harbor to a pier, and unloaded from the car, we never got into a ton basis up to that point. The only time we got into a ton basis was when it was unloaded on the Jersey side into a lighter, because we have no way of distinguishing the identity of the car there. We lose the identity of the car as soon as it gets into a lighter.

Mr. Colgren: Excuse me for a minute for taking the time, Mr. Examiner.

Exam. Boat: That is all right.

Mr. Colgren: I don't know whether to pursue this or not. Actually, I don't believe I have an answer to what I have in mind. I am sorry that I am not expressing myself better.

By Mr. Colgren:

Q. But, Mr. Heywood, you have developed for various types of traffic, box car, general cargo, open-top cars, and box cars, grain, certain unit expenses broken down as to [fol. 1283] a per car cost and a per ton cost.

In applying those port costs developed in your studies to the various commodities shown in your exhibits, is it not true that you have applied those uniform units to each of the commodities, distinguishing only between box car general, open top equipment, or grain shipments?

A. You mean the unit price?

Exam. Boat: The unit cost.

The Witness: The unit cost.

Mr. Colgren: That is right.

The Witness: You said units. Yes, I said I had used them throughout the exhibit, those that were developed.

Exam. Boat: And as to the lighterage, in apportioning that cost, it is necessary to apportion it on a ton basis, as I understand you.

The Witness: Yes, that is clearly my statement.

Exam. Boat: Then do you carry it into the per car cost of the commodity which entails lighterage?

The Witness: Yes, you have got switching. You have got to use the car there.

Exam. Boat: I am thinking of the lighterage portion of the cost, now. Is that translated into a car basis, when you carry it into your total cost?

The Witness: No, it goes into the cost on a unit as he is speaking.

[fol. 1284] Exam. Boat: But you have a certain number of units in the cars?

The Witness: It loses its identity when I get it into the lighter. It becomes a ton.

Exam. Boat: I see. There is no further handling, in cars.

So it is not translated into terms of cost, on a car basis.

The Witness: Not again, not as far as allocating is concerned.

By Mr. Colgren:

Q. Along that line, Mr. Heywood, is it not true your per ton costs include some car float expense?

(No response.)

By Mr. Colgren:

Q. Maybe I can be more specific on that. I have reference actually to your tonnage costs developed—this is on page "D"(1) of your underlying data, where certain of your trucking in lieu of lighterage, freight in both car

float and marine costs are shown on a per ton basis, when actually the shipments moved in car float service.

A. I don't know. I would have to look at that.

Mr. Langdon: Off the record?

Exam. Boat: Off the record.

(Discussion off the record.)

Exam. Boat: On the record.

The Witness: The sheet I have in front of me is supposed to be the original, and getting back to the point, on the box car the yard cost was on a car basis. Under station [fol. 1285] cost, the lighterage is on a ton basis. Car float under station is car basis, and truck in lieu of lighterage is on a ton basis.

The float bridge cost, the car float, is on a car basis, and the truck in lieu of lighterage is on a ton basis, and the marine cost, the lighterage is on a ton basis. Car float is on a car basis. Truck in lieu of lighterage is on a ton basis.

Now, box cars, grain, which you referred to, the yard cost is on a car basis, and the station cost, which is lighterage freight, is on a ton basis, and the marine costs, lighterage freight, is on a car basis.

I think that answers the question you were speaking of.

By Mr. Colgren:

Q. Well, actually, no it does not.

What I had reference to was the fact that certain of your— Yes. I asked specifically whether or not certain car float expenses were on a per ton basis.

In order to establish the answer to that, I think we have to have an understanding of what you have reference to as "trucking in lieu of lighterage" here, and how it applies.

Is it not true, Mr. Heywood, that you show in movements of cars of traffic from Harsimus Cove float bridge to Desbrosses Street and West Twelfth Street the figures developed in there as trucking in lieu of lighterage?

A. That is trucking from the pier to the shipside, from the pier to the ship.

Exam. Boat: From the Jersey side?

[fol. 1286] The Witness: No. We have taken it over to the pier on the car float. We have unloaded it, and we call that in lieu of lighterage, because if we had put it on the lighter, the lighter would have gone alongside the ship and there would not be the necessity of the trucking from our pier to the ship pier.

Exam. Boat: That last pier you referred to was on the Manhattan side?

The Witness: They are both on the Manhattan side, the 12th Street and the Desbrosses Strdet pier are on the Manhattan side, and we take it from there to the pier at which the ship is tied up.

Exam. Boat: Referring to the float bridge portion of that trucking in lieu of lighterage cost, you had a float bridge portion in there too, did you not?

The Witness: Under marine service, I had—

Exam. Boat: Car float and lighterage?

The Witness: I had yard cost, and station cost, and the marine cost, and that was grain I was referring to. Under the marine cost on general cargo, as referred to by Mr. Colgren, I had lighterage, car float, and car float was on a car basis.

The truck in lieu of lighterage is on a ton basis and the same is true of lighterage.

Exam. Boat: I think one of the difficult things for me to [fol. 1287] understand is the marine cost. What does it entail?

The Witness: That is taken from Harsimus Cove Pier to the pier, either on Desbrosses Street or Twelfth Street, or wherever we are taking it, over on the Manhattan side.

Exam. Boat: And that includes both lighterage and car float operations?

The Witness: No.

Exam. Boat: That is why—

The Witness: Do you understand—I should not ask that question. I guess that is wrong. I was going to ask you if you knew the difference between lighterage and car float.

Exam. Boat: Yes, sir.

The Witness: We will start from there. When we take it over on a car float, we unload those cars while on the

float on to the pier. The truck comes in and loads the truck, the truck is loaded with that freight and taken to the ship pier. By ship, I mean the one to receive this freight. If we are going to do it by lighterage, we would unload the lighters on the Jersey side and take them directly to ship-side.

Exam. Boat: Very well.

By Mr. Colgren:

Q. Now, Mr. Heywood, I believe the Examiner and I are both concerned about the same thing. You have shown, in connection with the movement of these cars from your Harsimus Cove, for instance, car floats, or float bridges, the movement of these cars on car floats to Desbrosses [fol. 1288] Street and 12th Street.

A. Let us get that straight. It is pronounced Desbrosses Street. You confuse me.

Q. Excuse me.

Now, we have the cars moving on the car floats from Harsimus Cove float bridges to Desbrosses Street and Twelfth Street stations and those costs are allocated under the heading trucking in lieu of lighterage on a per ton basis.

Why?

A. After the freight is unloaded from the cars and gets into trucks, it is no different than the Jersey side from putting it into a lighter, and the car loses its identity.

Q. Is that an explanation of why you have charged on a per ton basis this traffic which is car-floated from your Harsimus Cove to your Manhattan pier stations, instead of, as I would think would be consistent with your treatment of other car float expenses, which you have allocated on a car basis?

A. On—

Q. I am not sure whether I got a complete question.

A. Are we talking general cargo or are—what are we talking about?

Q. Yes, we are talking about general cargo trucking in lieu of lighterage.

A. That, I think, I said is where we take it from our pier

on the Manhattan side to the ship pier. It has nothing to [fol. 1289] do with from Jersey over. We have already taken it over on the car float and we then, I think, the proper factor for allocating is the car, as far as car float is concerned, and when it begins to be unloaded generally on the platform and put into trucks to take up to the ship pier, we do it on a ton basis. That is the way we feel about it, and of course if that is not the way you feel about it, we are just not going to agree.

Q. We are in agreement. We think that is the proper way to do.

A. Well, that is the way we did it.

Q. No, you didn't?

A. Well, we didn't, according to you, but I say we did.

Q. Mr. Heywood, can you indicate to me in your underlying papers where your trucking costs appear for this service from Desbrosses Street and 12th Street to these steamship piers we were just discussing a minute ago?

A. I don't know whether I can pick that out right here and now, or not.

Q. Well—

A. Under the classification of accounts, I should have answered it right away, although it skipped my mind—that is a charge to revenue—trucking in lieu of lighterage.

Q. That is on the Manhattan side?

A. Yes, that is right.

Exam. Boat: By charge to revenue, you mean it is an [fol. 1290] offset to your revenue?

The Witness: It is taken out of revenue—that is correct.

Exam. Boat: So it is—

The Witness: We are not allowed to charge it to expenses, under the classification of accounts.

By Mr. Colgren:

Q. We kind of got off on a tangent here. I had—previous to this lighterage in lieu of trucking and car float and such, been talking about the development of your exhibits and I think we had established that you had applied

uniform per car and per ton costs to the commodities movements shown in your various exhibits.

Now, in your exhibits No. 1 and 2, you followed that practice, and factored the costs up to reflect your July 1st, 1957, costs. Is that right?

A. That is not true of Exhibits No. 1 and 2.

Q. That is right.

A. That is not true of one and two.

Q. In your Exhibits No. 3 and 4, you factored these car costs up to reflect January 1, 1958 costs?

A. That is right.

And the same for five and six. We might as well clear that up right now.

Q. Yes.

Now, Mr. Heywood, let us turn to yard costs, which you charged on a per car basis to the export and import traffic. [fol. 1291] You state that the yard costs are developed for the "New York area"—and that is found on your work sheets. What do you mean by that phrase "New York area"?

A. Well, we have about, as I recall, four yards in the New York area.

Q. Will you name them?

A. Harsimus Cove, Greenville, Waverley and Meadows.

Exam. Boat: Are these yard operating expenses for those areas separate—kept separately in your books?

The Witness: No, sir.

Exam. Boat: Or are they part of a much wider area?

The Witness: They are part of the New York zone, or New York region, as it is now called.

Exam. Boat: What does that embrace?

The Witness: From New York down to Liddonfield, Pennsylvania, through Jersey, just slightly beyond the river there, beyond Morrisville, which is on the west side of the river, with Trenton on the east.

Mr. Bongartz: You are talking of the Delaware River?

The Witness: Yes. Littlefield is just a little beyond that.

Exam. Boat: They are the unit costs for that area, the costs recorded for that area?

The Witness: Not necessarily all together. We had the crew costs for the separate yard.

[fol. 1292] Exam. Boat: The group cost?

The Witness: The crew cost.

Exam. Boat: Crew cost?

The Witness: Yes. Things like that where we could take the particular engines and consumption there.

Exam. Boat: But those you could not allocate specifically—

The Witness: That might have covered the local situation of the set-up in the New York region.

By Mr. Colgren:

Q. Mr. Heywood, what yard facilities and yard operations were studied by you in the New York area?

A. The whole four yards were given consideration and study.

Q. The ones you just mentioned?

A. Yes.

Q. And named for me?

A. Yes, sir.

Q. You developed the switching minutes per car and the various elements charged to it on the basis of a one week period from September 25 to October 1, 1956. Is that right?

A. That is right.

Q. How did you develop the average minutes per car for each element of switching service—that is, classification transfer and so forth, as shown on your—

A. It was made by a specific time check, riding the locomotives in the yards.

Q. How did you determine each element chargeable to [fol. 1293] the import-export traffic?

A. It was whatever service the import-export cars got.

Q. Yes, but how did you determine that?

A. Well, we know from our operation what we have got to do to a car to get it down to the river. Where it was not going into an industry, it had a classification after it reached the break-up track. We had to get it down to the carfloat movement.

Q. That is right. Do you mean you studied each car as it went through these yards?

A. We knew whether it was an export car, or, come back the other way, an import, and then we know what service that car is given in the yard.

Q. You did this actually on a per car basis?

A. I didn't say that. I say we knew the number of cars and we knew what operation is required to get that car through the yard—an import car, of freight, that is, coming over, after it is loaded from the lighter or whatever it is, or export, brought to the yard to unload to the lighter.

Q. Did you make a foot-board study to determine the actual service accorded, export and import freight into your yards?

A. What do you mean by a foot-board study?

Q. A foot-board study to follow individual cars to determine the services accorded.

A. Yes. We had the cars and we knew what was being [fol. 1294] moved through the yard at the time we made the study. We know what is accorded a car going to pier 7, 8 and 9, and we know what is accorded a car going over to the Jersey side to industry in Jersey City.

Q. All I am trying to determine, Mr. Heywood, is how you know that.

A. Well, I guess I shouldn't say this, but ordinarily the man operating the yard, common sense tells him what is happening on a car going through the yard.

Q. Yes, but I am not that man and I have only your work papers and I would like to have some idea what services were accorded import and export cars in these various yards.

A. Well, we were over in the yard, made a study of the situation and knew how many import-export cars, and, as I said before, we know what service they get and that is what is applied to the cars.

Q. You keep saying, Mr. Heywood, you know what service is accorded, export and import cars. How do you know that?

A. I guess by—I had better not make that statement.

Through the knowledge of operating the yard and the various classes of traffic that go through the yard. I don't know how else to explain it.

Q. Well, this purports to be a specific cost study, Mr. Heywood. You have allocated down to minutes, if you please, of operation various services accorded export and [fol. 1295] import freight in these yards.

Now, in order for us to test the accuracy of those allocations, I think we are entitled to know how you arrived at the base for your allocations, and that is all I am trying to do.

A. The basis of allocation of what, for classification and so forth?

Q. Yes, sir.

A. I told you, we rode the locomotives and took the time.

Q. That is as far as your locomotives are concerned. Locomotive hours.

A. That is what we are trying to distribute here—the cost of the locomotive minutes.

Q. That is right. But now you have distributed it to export and import traffic.

A. And we know that gets a classification, or we know it moves from the classification section to the float bridge and how many minutes it takes to go from that to the float bridge. We know that, from our test by engine check.

Q. Actually these do not purport to be actual figures but are on the basis of estimates of time needed to accomplish these various services. That is right, Mr. Heywood?

A. No, I don't agree with you that they are estimates. No, I do not.

Q. Well, who furnished you the information to make these "not estimates"?

[fol. 1296] A. By riding the locomotives with men on the locomotives checking how much time was spent in taking the car out of the classification, or classifying, or taking it from here to there or wherever the movements went, the time.

On your basis, all studies made from this time to eternity would be estimates, even yours or anybody else's.

Q. How did you make the apportionment to the import and export traffic?

A. I think I said that three or four times before, and whether you are trying to get me to contradict myself or not on that, I don't know, but I will let the record stand.

Q. I am sorry. I don't believe you said it three or four times in answer to my questions.

A. Then maybe you'd better read the record.

Q. What I gather from your testimony so far, and if you are satisfied with your testimony perhaps we can let it stand: You have indicated you made a study of various switch movements in the yard, and that this was performed by riding the locomotives, a regular time study and so on, for the various elements indicated in your cost study, such as classification, transfer and so forth.

I have asked you how you determined how many of those locomotive hours and minutes and so on are chargeable to this export and import traffic.

From what you have told me, it would seem that you feel [fol. 1297] that your kept track of the export and import cars as they went through the yard for that entire week and kept track of the minutes by individual cars.

A. I didn't say that.

Q. No, I didn't think you meant to. But that is the impression you left with me and why I am trying to get straightened away.

Now, will you restate for me, please, how you allocated these various switching services to the export and import traffic?

A. I said that we knew what was required to move the different class of cars through the yard after the study was made, and those movements are the basis of the allocation of the minutes with costs of those particular movements we are interested in.

Mr. Keenan: Could I have that answer read, if the Examiner please?

Exam. Boat: Would you read it, please, Mr. Reporter?

(Answer read.)

By Mr. Colgren:

Q. Now, Mr. Heywood, if you are satisfied you did this with some accuracy, how does it come about although you show no refrigeration traffic handled in refrigerator cars handled by the Pennsylvania Railroad, you show an element of switching service for icing cars assigned to export and import traffic?

A. I would have to go back and look at the specific cars to see what they were, before I could actually give you an answer to that.

[fol. 1298] Q. Do you have some car records that you can refer to for that purpose?

A. We have car records for the week and we have the car records somewhere in here, I believe. In the work sheets I think we gave you, you will find a sheet that is hard to identify, but it says "Terminal Service, New York". It shows the various elements of box car, general, box car, grain, open car, and refrigeration. The first item there is 31404, at the top of the sheet.

Q. Yes.

A. If we are still talking about Pennsylvania Railroad, we had no refrigerator cars in New York, import, export.

Q. That is right, Mr. Heywood, and that is the cause of my question, because back to what is marked here as sheet "D-7"—

A. That doesn't mean a thing to me.

Q. All right. It is your yard costs in the New York area, for the study-week—do you have it?

A. I don't know whether I have— What is the first figure on the sheet?

Q. It is by cars, Jersey City-Greenville, in a total of 78 cars. That is for import.

A. No, wait a moment. That is not the sheet I have. What did you say that figure was?

Q. The left-hand column is headed loaded cars switched, at the top.

[fol. 1299] A. I have got it, "69"—is that the one?

Q. That is right.

A. All right.

Q. There, Mr. Heywood, you will see, under your various

categories of expenses and the various services accorded in switching movement an item for icing cars that appears on that page five times, and then in a total, at the bottom.

A. That is our operation in the yard, but as I said, we have no import-export involved in the refrigeration, which I called attention to in the other sheet I have here.

Q. That is right, Mr. Heywood, but this purports to be the expenses, as I understand it, for loaded cars of export and import traffic.

A. It says import freight at the top—the sheet you mean?

Q. Yes, and then over on the right-hand side, there is another similar column for export freight.

A. At the moment—that is the total expenses allocated, but at the moment, I say—

If you want us to take it out of there and put it into your import cars, we would be very glad to do that and increase the cost.

Q. No, I am not particularly interested in doing anything other than to find why it is alleged to be a cost of import and export when you didn't handle it.

A. To my interpretation of the sheet we took the total [fol. 1300] cost from there in the yard, and spread it to whatever it was, and even though it is marked import and export, it means anything involved in the class of car we were working on, this is the element to use, this is the element, the unit cost here. We did not have, as I said before and proved to you directly on this other sheet, we had no refrigerator cars as far as the Pennsylvania Railroad was concerned in import and export freight.

Q. Yes, and that is my whole point. Here you have purported to make a cost study of specific cars of export and import freight and to these specific cars of export and import freight which do not include any refrigerator cars, you have assigned icing costs, and I am trying to reconcile, Mr. Heywood, if you please, how you arrived at the application of these various costs and services to export and import cars.

A. Well, I can go back and say we took the elements involved from a particular class of cars going through the yards, and that is what we used.

Q. I am to assume, then, that these are general costs at the yard which would apply to all cars going through the yard?

A. That is right, in that case, yes.

Q. Without distinguishing—

A. No, it is distinguished as to the class of service performed on the car. We don't say we give export-import any particular classification as against the classification of [fol. 1301] another car. A classification is a classification, as far as we are concerned.

Q. But how did you determine the minutes you applied to those cars?

A. Oh, my God, are we going back to that again?

Q. Yes, sir.

A. The minutes to what cars?

Q. To export and import cars.

A. The minutes we developed in the engine study for classification of cars.

Exam. Boat: Of all cars?

The Witness: Yes, certainly all cars. You don't distinguish when you are making a yard study as to the class of car in that respect. You only get the movements in the yard to get the minutes to apply to that service, and then that service, if applicable to the class of the car you are talking about, the service you are giving, then you apply that. I never heard of any study that got down into the minutiae of the class of car and a description of the traffic and so forth.

By Mr. Colgren:

Q. Mr. Heywood, what do you mean by industrial switching found on this same page here, as it applies to import and export traffic? Do you mean because the word import and export is over the top of the sheet?

Define for me, if you will, the industrial switching.

A. The industrial switching is the delivery of a car to an [fol. 1302] industry, particularly in the Jersey City area, as far as we are concerned, in this operation.

Now, we may have come through with a car for one of those industries which may have been export and import

freight, as far as I know. Colgate Peet has a pretty good sized plant there and so forth.

I guess I shouldn't tell where the industries are.

Q. Mr. Heywood, in the totals which you show for these various services, the amount of expense assigned to industrial switching for this purported import and export freight is quite a large proportion of the total yard costs; your total switching costs, I mean, excuse me.

A. Well, naturally, delivering to an industry takes a lot more time than does a lot of other movements in a yard—within the yard. The industry is not right within the yard, by any means.

Q. Mr. Heywood, do you have a copy of your reply to my letter of February 20th?

A. Yes, sir, I have one.

Q. On the first page of that letter, under the designation, one, yard cars handled, you have a table of number of movements and locomotive minutes assigned to elements of service.

If you look down in that column to industrial switching and then across, you will find some 19,740 movements.

Exam. Boat: By the way, does that mean single car movements?

The Witness: That is right.

[fol. 1303] Exam. Boat: Single car movements?

The Witness: Yes.

By Mr. Colgren:

Q. Does that mean these would represent cars?

A. No, I said movements.

Q. Yes, that is right. Now, I am a little confused. I am sorry, Mr Examiner.

Exam. Boat: We don't know what this means. We are trying to find out.

Mr. Colgren: Well, I am in the same boat.

The Witness: You had better look out somebody doesn't scuttle it on you.

By Mr. Colgren:

Q. Well, this is not the number of cars—this is the number of movements.

In my letter, we had asked for the number of cars, Mr. Heywood. Is that information available?

A. No, it is not readily available. In fact, I don't know how to get that exactly with the study, because this was based on movements and this is the locomotive minutes, mixed up with the movements.

Q. Then there was no car by car record during your switching study. Is that right.

A. This was car by car in the sense the same car may have hit a certain spot the second time.

For instance, your perishable car might, before it is shipped across the river, be told to hold it for the market, [fol. 1304] the next day, or something.

And again, another car, or other cars on the car floats may have gone all the way over to the piers, before we were told to hold it for next day's market, and we had to take it back and bring it back to the hold track. We can't say that is just one car. It is the movements we made on that car.

Exam. Boat: Are we to understand this represents locomotive movements irrespective of the number of cars that were handled by the locomotives in such movements?

A. No, the number of movements technically referred to the car. Of course, the locomotive is involved, but I don't know how many cars may have been involved with the movement of the locomotive.

This is the divisor into the minutes.

Exam. Boat: Into the number of locomotive minutes. In other words, the classification, it took so many minutes, and involved so many locomotive movements?

The Witness: It involved locomotive movements, but the figures under movements are referring particularly to the cars themselves.

Exam. Boat: They reflect the time and cost consumed in handling the cars?

The Witness: The minutes do, yes, sir, over in the last column. In other words, for these 31,235 movements in classification, it took 274,595 minutes.

[fol. 1305] Exam. Boat: And you can't tell us whether that 1,235 represents number of cars moved or what it does represent. Is that right?

The Witness: I say that the movements is a more correct figure than cars, because of the fact I tried to give an explanation how that car hits the same spot maybe two or three times.

It is not the thought that we count the car—a car is a car in a yard, in and out, insofar as technically the operation is concerned, but many times it receives more than one of the same thing.

Exam. Boat: Does it represent the times that a car is moved, counting each car for each movement that that car entails?

The Witness: That is right.

Exam. Boat: We are getting somewhere, now.

By Mr. Colgren:

Q. I would still like to know, and if we can keep this in mind, Mr. Heywood, maybe we can still find some way of developing how you determined this was export and import freight.

A. How which was export and import?

Mr. Langdon: May I suggest a recess, sir?

Exam. Boat: Yes, I think we might take a ten-minute recess.

(Recess.)

Exam. Boat: Come to order, please.

[fol. 1306] By Mr. Colgren:

Q. Mr. Heywood, just prior to the recess, I was inquiring about the industrial switching which is included in your cost study, and I think we were referring, for simplification, actually, to your letter of March 19, 1958, where it is indicated that industrial switching accounts for some 18,740

movements, which, if I may observe, is a substantial portion of the total number of movements.

I am very interested in finding out what this industrial switching is.

A. Well, I thought I explained industrial switching before. It is not any different than I understand every railroad or industry switching was. When we switch a car out of an industry or into an industry, back into our yard for further rail movement, or the completion of a rail movement and then into the industry, it is getting a car either into or out of industry, and we have, as I said, many industries, particularly in the Jersey City area, in which Harsimus Cove is located.

Q. Yes. But what we have been developing here is costs allocated to export or import freight. Can you tell me what industries these are, and where they are located in the New York area that would be receiving export or import freight?

A. No, I don't know that, and anyway, inasmuch as I have taken the industry switching time out of this, I don't see where that has anything to do with import and export.

Q. Can you tell me how you took this out of the study? [fol. 1307] A. Yes. I didn't apply any of the minutes to it—to import-export.

Q. I am afraid, Mr. Heywood, you will have to take me by the hand and lead me through the method by which this industrial switching is not included in these switching costs for export and import traffic.

According to the work sheets you furnished us, there is a substantial portion of switching costs assigned under the heading, "Industrial Switching."

Can you tell me where you took it out?

A. I didn't use it, after I got the minutes out that were industry.

Q. Will you show me where that or how that was accomplished?

Mr. Heywood, it has been drawn to my attention that, for instance, under your total operating expenses—we are still talking about the page that we were on before, where the first figure is 69 cars, loaded cars switched—

A. Yes.

Q. Now, in that group of expenses which has a sub-title, "Total Operating Expenses", there is in the column headed Total Foreign New York Area, there is an expense opposite industrial switching of $4.08 per car. Do you have that?

A. Yes, I have that.

Q. On the next sheet—one more step. That $4.08 is included in the sub-total there of $18.31 for the total operating [fol. 1308] expenses. Is that right?

A. Yes. It is part of the $18.31.

Q. Yes, sir. Now, on the next page, under a heading "Cost per loaded car," and in your first column of figures opposite "Total operating expenses", it shows the figure $18.31. Is that right?

A. That is right.

Q. Now, apparently, Mr. Heywood, under the heading "Box cars, and the further breakdown," general cargo, that $18.31 previously referred to is multiplied by the total loaded cars shown under general cargo of 2482, making a total operating expense for that type car, $45,445.42. Is that right?

A. That is right.

Q. Therefore, Mr. Heywood, the industrial switching is included in your total costs per loaded car in your yard cost study. Is that not right?

A. It is in the total cost of the yard operation, yes.

Q. Under the heading "box cars" and again the sub-heading, "general cargo", where you show 2482 cars involved, you have added up the various expenses, total operating expenses, six percent interest, and rental received, which, incidentally, is a credit, that last item, and arrived at the total of $59,816.20. Does that agree with—

A. Yes, I have $59,816.20.

Q. When that total is divided by the number of cars, [fol. 1309] 2,482, the results in a figure of $24.10, which is shown in the first column of figures entitled or headed, rather, "Total Foreign, New York Area." Is that right?

A. That is what it says.

Q. That $24.10 is used, is it not, in your further allocation of costs to export and import traffic in developing the unit costs which you ultimately apply against specific commodity movements?

A. I will have to trace that back, first, before I agree to that.

Q. Well, so far we have established that the industrial switching is still in the yard costs which you have applied to import and export freight. Is that right?

A. The cost of the total yard has industry in it, yes.

Exam. Boat: Total yard operation, you mean?

The Witness: Yes, the total yard operation.

By Mr. Colgren:

Q. Now, Mr. Heywood, if you will follow with me again, if you recall, we found a figure of $59,816.20 which was applied to box cars, general cargo.

A. That is right. We agreed with that figure.

Q. That is right. Now, if you will refer to your summary sheet of New York costs as used in final exhibits of terminal costs—I just read the heading to you—in the fifth column, the very first figure is $59,816.20, is it not?

A. Just a moment. I had that sheet, but turned it over [fol. 1310] again somewhere.

Q. This is a photostat copy. Do you want to use that?

A. Yes.

Q. You find the figure of $59,816.20 on your summary sheet which is headed "Summary"—"New York Costs As Used in Final Exhibits of Terminal Costs"?

A. Yes, sir.

Q. That figure is used in connection with the 2482 cars indicated in the third column of that sheet in developing your total cost per car, shown as $24.33 in the seventh column. Is that right?

A. You mean of this same sheet?

Q. Yes, sir.

A. The seventh column?

Q. Down in the total.

A. You have six columns. No wonder I didn't— You say the item is $24.33?

Q. Yes.

A. I beg your pardon. I was thinking of $24.10. Yes, $24.33—that is right.

Q. So, Mr. Heywood, it does appear now, does it not, that the industrial switching was included in the costs allocated to export and import freight?

A. You would indicate it, according to the way this is set here, but I think that is taken care of on another sheet, [fol. 1311] which I have been trying to find, and I am damned if I can find it yet.

Q. If I may observe it, Mr. Heywood, we did not—

A. You did not get it?

Q. That is right.

A. That is possible.

Thank you for the use of the sheet. I have the summary sheet now.

Q. Mr. Heywood, on what is your next summary sheet, headed "Terminal Studies"—

A. Is that one of the small sheets—

Q. Yes—where your total expenses are broken down, or rather summarized on a ton basis and car basis—

A. I have it.

Q. The item of $24.33 we were discussing shows opposite the Pennsylvania Railroad, under the heading box cars—general cargo—

A. Yes, sir, that shows up there.

Q. In the unit expense.

A. Yes.

Q. Which ultimately is brought down and factored up to be included in the $34.96 allocated on a car basis to that type of traffic—that is, moving in box cars—general cargo.

A. Summarized—that is the summary.

Q. Now, Mr. Heywood, would not the same thing apply to such icing expenses as developed on your cost study? [fol. 1312] A. Yes, the icing goes along with the same way the $4.08 was charged.

Q. Yes, and the $34.96 which we previously mentioned as the car basis of expenses for box cars, general cargo, is the amount used in your exhibits—well, in all of your exhibits.

It is either the amount used or the basis for the amount used in all of your exhibits. Is that right?

A. That is the basis, as I recall—$34.96.

Q. Yes, sir. Now, Mr. Heywood, referring to the sum-

mary sheet of car expense for yard costs, we just had it a minute ago in connection with that figure of $59,810.20.

A. Yes.

Q. On that work sheet you showed 2482 general box cars and 603 open cars, for a total of 3,135 import-export cars handled during the month of September, 1956. Is that right?

A. Yes, that is the cars—653 and 2482.

Q. On page— on the preceding work sheet you show a total of 304 cars of import-export traffic handled during the test week of September 25th through October 1, 1956. Is that right?

A. That is right—304.

Q. Now, Mr. Heywood, that 304 cars is less than ten percent of the total cars handled during September, 1956.

In developing yard costs chargeable to particular movements in a yard, do you not think it is necessary to develop such costs based on a representative number of car han-
[fol. 1313] dlings during the test week?

A. Well, if you can determine what that test week is, it may be a very good idea. But you always make a yard study in the future, and therefore you could not make a yard study if you started to wait to get a supposedly representative week that you referred to. So I don't know how you would come up with that.

Q. Well, would it not be proper, you think, to make some sort of adjustment if the period in the future proves to be unrepresentative?

A. No, I would not know how to make the adjustment.

Q. Well, would you recognize or agree with me that a purported test week upon which your costs are based, which reflects less than ten percent of the cars handled during the particular month is not representative?

A. No, well, I can't say it is not representative—that it is or is not representative. I mean I could not deny you may not consider it not representative.

But it does show the number of cars in the period where we are trying to determine the number of minutes of switching these cars in the various classes of service rendered in that yard, and for all due respects and purposes, as far as I see it, as long as you get the minutes on those movements

that comes pretty close to no doubt what it would be over the period of a year, no matter whether it was 304 or 604.

[fol. 1314] Q. Well, Mr. Heywood, that is I think correct, as far as specific operations are concerned, but does that hold true where you get to allocating expenses—fixed expenses?

A. Well, we only took the expenses for the week—we worked it down to a week, at least, to use the minutes which were taken in the study to get a rate per minute, or per car eventually from the minute basis.

Q. Well, let us talk about taxes.

Let us take real estate taxes, for instance. I want to refer you to the real estate taxes which apparently are divided on the basis of the 304 total cars, or computed on the basis of the 304 cars.

It is true, is it not, that the number of cars would certainly have effect upon the figures resultant?

A. You mean the rate per car?

Q. Yes.

A. Yes, there would be possibly an effect there.

Q. So that a larger number of cars switched would result in a lower figure for taxes. Is that right?

A. Yes, or a smaller would be larger—either way.

Q. Yes, and the same thing would apply, would it not, to six percent interest on the road and equipment?

A. The same effect would be as taxes.

Q. Yes—it would run throughout the whole series of computations based on the number of cars. Is that not right?

[fol. 1315] A. Well, are you speaking of pay-roll taxes now?

Q. Well, that appears to be more a direct expense but I think even there it would probably—

A. You said all of them. I just wanted to know what you were referring to.

Q. I started out talking more to the fixed charges.

But it does have an effect, does it not, even on the specific units developed in your study?

A. Well, ordinarily you swing your yard crews according to your requirements, and the pay-roll tax is paid on their wages.

Q. Mr. Heywood, if you will refer back again, please, to the sheet of yard costs which—maybe your sheet is page four?

A. No, I have no pages.

Q. No pages at all?

A. No page.

Q. The heading of the left-hand column is "Total Switching Minutes".

The first figure is 1663.6.

A. 1663.6?

Q. Yes. I would like to know what is covered by the designation "transfer" which appears several times in each of your locations on that page.

A. I don't know whether I can give you the exact definition of that as the operating man would tell you or not.

Mr. Bongartz: Can't Mr. Heywood inquire into that and [fol. 1316] give the answer a little later, Mr. Colgren?

Mr. Colgren: We want to know certainly what is included in that.

Mr. Bongartz: I understand that. I was just suggesting it might save some time if you went on to another question and Mr. Heywood could develop that information in the meantime.

Mr. Colgren: Yes, that would be all right, Mr. Bongartz.

Mr. Bongartz: Will you go on to something else?

Mr. Colgren: Yes.

By Mr. Colgren:

Q. Mr. Heywood, I understand you will supply me with an answer to the meaning of the term "switching movement" referred to as "transfer"?

A. Yes, as between yards, or between a yard or an industry, or vice versa.

And the yard—from the yard to interchange tracks—tracks in a yard to a particular interchange.

Q. Would that include a movement to a float bridge?

A. Yes.

Exam. Boat: In other words, that is a transfer, also?

A. The transfer of a car, yes.

By Mr. Colgren:

Q. You have not charged any transfer service to export grain, Mr. Heywood. What is the reason for that?

A. Well, we only handle grain down at Greenville. That comes in—the car undoubtedly comes in direct to the so-called floating elevator we have there, and I don't see why [fol. 1317] we would have any more than the one movement to get it in there. It is way over on the side of the yard, as I recall it—in order to get it into the elevator.

Q. I understood you to tell me your study covered Meadows yard and I think there is testimony in the record itself by yourself or Witness Clark, that your cars for Greenville are broken out at Meadows Yard, and that would include a transfer, then, to get it over to Greenville. Is that right?

A. It would if what he says is correct, yes, sir.

Q. All right, thank you, Mr. Heywood.

Now, Mr. Heywood, on a work sheet entitled "Yard Switching Study", with a further title of "Covering Cars Destined to or Originating in Differential Territory, New York Area",—it is your sheet "D"—it is back a little bit.

A. Where you develop your minutes.

Q. The first figure on the left is 124—

A. I have it.

Q. On that page, Mr. Heywood, you show that the average minutes per, quote "Total" unquote, car for classification ranges from 6.6 minutes—that is opposite the figure "ten" which is the third from the top, to 10.3 minutes, which is the first figure in the second column.

A. The first figure in the second column?

Q. Yes.

A. It is in the same column as the 66.

[fol. 1318] Q. Yes. That is right. I just gave you a range there.

A. Yes.

Q. Can you explain how these average minutes per car were developed and at what yards?

A. Well, that particular one was at Harsimus Cove—the figures you quoted.

It says Harsimus Cove in the heading there where it says "69 Cars Moving Through Harsimus Cove." At least that is the sheet where I checked the 10-10 and the 6-6 with you.

Q. That is right. What would account for the spread there for apparently the same service? You go from 10.3 average minutes per car to 6.6 minutes, at the same location.

A. The same location. The same service. But evidently in each case with a different number of cars.

The answer to that, to make a direct answer, would, I think, be better covered by an operating man who was involved in the actual time check.

Mr. Bongartz: We can get that for you, Mr. Colgren.

By Mr. Colgren:

Q. You do not know, then, why there is that disparity?

A. I don't know the specific reason, and there is no sense trying to guess, when the man is here who can answer you.

Q. All right, sir. On that same page, Mr. Heywood, you show that for the 141 cars moving through Harsimus Cove —those are export cars, down about the middle of the page, [fol. 1319] Mr. Heywood, you will find 220 cars of export freight—

A. Of the 141?

Q. Yes.

A. I have it.

Q. You showed these 141 cars required 405 classifications.

A. That is right. That is what it shows.

Q. Can you explain that for me, please?

A. No, that would come back to the operating man again.

Q. That is almost three classifications per car, Mr. Heywood, I might point out.

A. Yes.

Mr. Bongartz: If I might interrupt you right there, Mr. Colgren, to the extent these questions you have involve operating matters, information which was furnished to Mr. Heywood, Mr. Clark will take the stand at the appropriate time, and undertake to answer these questions. I assume that you will check the ones in that category which you wish answered in that way.

Mr. Colgren: Thank you, Mr. Bongartz, you are making me do it the hard way.

Mr. Bongartz: I am sorry, but this is a complex subject.

By Mr. Colgren:

Q. Now, Mr. Heywood, I think in connection with our discussion of transfer you indicated that included switching to the float bridge. Is that right?

A. Yes. I said it would remove through the yard by the [fol. 1320] float bridge, it would be a transfer from the yard.

Q. I just wanted to establish that any switching to the float bridge is included in your yard costs. Is that right?

A. Oh, yes.

Q. Now, Mr. Heywood, I want to talk float bridge costs with you, and they were apparently on the next two sheets after the one we were referring to.

Now, Mr. Heywood, it is true, is it not, that the float bridge costs are developed on these two work sheets. Is that right?

A. Yes, sir.

Q. And you used the month of September for the purpose of developing the unit cost per car handled over the float bridges. Is that right?

A. Yes, I believe it was sent when this was—

Q. Yes, it is so headed.

A. Yes.

Q. On the first sheet of these float bridge costs, you show 26,710 cars handled over the Harsimus Cove bridges. Do these cars include both loads and empties?

A. You said 1600—

Q. Sixteen thousand—16,714— It is in the column called "Expense", it is the fifth item from the bottom.

A. I beg your pardon. I was in the wrong—yes, that includes all cars, empty and loaded.

[fol. 1321] Q. Can you break down for me as to which are loaded and which are empty?

A. Do you mean the number?

Q. Yes.

A. I think I—if I am not mistaken, I advised you in the letter that I did not have a breakdown of that.

Q. Can you give us a breakdown as between export and import freight, and domestic freight?

A. As to these 16,714?

Q. Yes.

A. No, sir.

Q. Can you give us the origin and destination of such cars among the piers in the port?

A. No.

Mr. Colgren: Now, we would like—Mr. Examiner, this is going to be a little unorthodox, I think—we would like very much to have the information.

Incidentally, this is the information requested in my letter of February 20, 1958, or rather some of the information requested in there, and apparently it is not readily available or was not thought to be.

Now, I have a reference to a document entitled—filed the—it is a vessel operating report which is filed with the Corps of Engineers, Department of the Army.

The New York Central filed such a statement, and I am [fol. 1322] wondering whether the Pennsylvania would give us, from that source,—the reference to the form number is Budget Bureau Form No. 49-R 269.7 and that is, as I indicated, a vessel operating report which is filed with the Corps of Engineers, Department of the Army, by—I am sure by all of the railroads.

It is my understanding that that indicates the number of car float movements and the number of cars by destinations within the harbor.

Mr. Bongartz: What period does it cover, Mr. Colgren?

Mr. Colgren: It is my understanding further that this is an annual report, but it seems to me, in order to make that annual report the one preparing it would necessarily have to have some daily, weekly, monthly record.

And we would like very much to have September 1956, as well as the annual summarization.

Mr. Bongartz: Pardon me, Mr. Colgren, do you have a sample of this report with you?

Mr. Colgren: No, unfortunately I don't.

Mr. Bongartz: What does it look like?

Mr. Colgren: I am sure it would be filed by probably the

lighterage agent in the New York area. As I say, the source of my information is the New York Central files, a similar report, and I gather that all of the railroads do.

Mr. Bongartz: Is this under some sort of requirement, to your knowledge?

[fol. 1323] Mr. Colgren: Yes, I think so.

Mr. Bongartz: Or is it voluntarily?

Mr. Colgren: I did know the purpose at one time, but I have forgotten, unfortunately.

Mr. Bongartz: We will just have to take that under consideration, Mr. Examiner. None of the people here are acquainted with it.

Exam. Boat: You will endeavor to supply it if you can get it?

Mr. Bongartz: I will have to see what the situation is on it. I don't know whether we can supply it, or what it is.

Mr. Colgren: Quite frankly, Mr. Examiner, I am just suggesting this source of information, since we had requested it, and it apparently was not available in any other form.

And actually I stumbled across this quite by accident.

Mr. Bongartz: Did you go to the Army Engineers and ask for this?

Mr. Colgren: Yes, I did. But apparently these are not distributed or I would have gotten the Pennsylvania documents.

Mr. Welsh: The basic documents from which that report is made up are not available to the public, but the complete report is available from the Army Engineers through their statistical surveys which they publish once a year.

Mr. Bongartz: We will just have to find out what it is, and what Mr. Colgren knows. Is that all right?

[fol. 1324] Mr. Colgren: I would appreciate it if we can develop that information.

By Mr. Colgren:

Q. Mr. Heywood, referring to the next sheet, the second sheet where float bridge costs are developed, you show the cost chargeable to the Jersey City lighterage piers is charged to car float freight in accordance with your work sheet "D-3" and it is reduced to a cost per car basis.

Previously we have discussed the fact that the similar float bridge costs on cars destined to Desbrosses Street and Piers 49 and 50 were allocated on a cost per ton basis.

Could you tell me why you treated the Jersey City lighterage pier cars differently from the Desbrosses Street station and the piers 49 and 50?

A. Are you speaking about this float bridge cost, the first figure 889, as Desbrosses Street? Is that the one?

Q. That is totalled, actually in the third figure of columns to be 1,044 cars, over which the expenses are distributed, and I am asking you, Mr. Heywood, why you allocated the expenses for those 1,044 cars on a per-ton basis, and at the same time you show 114 cars going to Jersey City lighterage piers, which you allocated on a per car basis.

And this allocation, Mr. Heywood, incidentally, is done on your summary sheets:

A. You are speaking of this 271.79?

Q. That is shown on the summary sheet which I think [fol. 1325] you subsequently corrected. It is this sheet here, and here is the $271.79.

A. On this summary sheet, I guess I am either confused or misunderstood what you said. On this summary sheet, it is on a per car basis.

Q. That is right for the 114 cars going to Jersey City lighterage piers. Is that right?

A. I assume it is against the 114.

Q. Now, that summary sheet you have was subsequently corrected, I understand.

You will find there it refers to $2,489.

A. Two thousand—

Q. Yes—opposite trucking, in lieu of lighterage.

A. Oh, I beg your pardon. I have been looking for the other thing—$2,489.

Well, that $2,489—isn't that after the—that is after the 271 was taken out of there.

Q. No, the figures are treated separately, Mr. Heywood, but one amount, the $271.79, is allocated on a per car basis, whereas your $2,489 is allocated on a per ton basis.

A. Yes, I got the figure now. I follow it now.

Q. Yes—and I want to know why? Why the difference?

A. It may say car and ton there, but I am not satisfied from this original sheet that it came off that way. I would like to have a chance to check that, because I am not sat-
[fol. 1326] isfied with this first sheet I have here.

Q. That is right.

A. But over here it has been copied in as—wait till I find that figure—it says "cars" there, and this still is cars here, for this, but over here it says "tons" and I am not sure that that "tons" is right.

Down to getting the $2,489, that was on a car basis, as I said my sheet shows. When it came over on this sheet and it was put on this "D-1", you refer to, it is still the $2.489 per car, to get it to that total figure. From then on, it was then distributed on a ton basis, because we finally got the tons that were in there, the reason why being that the B&O, in order to consolidate, had given the figures on a ton basis and could not tell the car so we had gone to a ton basis and we were the only one able to do it. But up to that point it was on a car basis.

By Mr. Colgren:

Q. Well, Mr. Heywood, I think we can accept your explanation, probably, but do you have any idea of the effect of placing those costs on a per ton basis, in your later application of these per ton costs in your statement against the various commodity movements?

A. No, I have not worked out the effect of it, but I feel in my own mind that inasmuch as we had the specific tons that were this the particular cars which we had originally distributed it on, we were fair in the distribution, although
[fol. 1327] we went to tons to agree—not to agree, but to get in line, and be uniform, to put it together with the B&O, as a consolidating figure, or a weighted average, I might say, which we were developing.

Q. Well, Mr. Heywood, I am a little confused at this point. If this was done in order to reconcile or conform to the method used by the B&O, still why was the Jersey City lighterage pier left on a per car basis and not converted to tons?

A. You mean, why we did not convert that to tons?

Q. Yes.

A. I would have to go back and check where we used that figure to see if we finally went back to tons to get it into the summary.

Q. No, you didn't—

A. It doesn't look so by looking at the summary, I will admit.

Q. No,—that is right. That is the $271.99 figure there.

A. That is right.

Let me have a little time at lunch time and I will go back in there and come up with an answer to tell you why we didn't change it or why we should have changed it and didn't. I will let you know when I go back and look and see if we did it in the summary, whether in consolidating the various carriers at the points, whether we did finally get it into tons.

Q. All right. Still talking about that 114 cars going over to lighterage piers, on your summary you show 54 cars of [fol. 1328] car float freight handled during the month of September 10, 1956. What is the reason for the difference between those two figures—54 as against the 114?

A. That 54 figure was the one we had back further when we were talking about float bridges before. What sheet does the 54 appear on?

Q. On the summary sheet.

A. I thought it was. Are you speaking of the 54 cars down alongside car float station cost?

Q. That is right. Now, I am drawing your attention to the fact that on this other sheet that we were looking at, you show 114 cars moving to—

A. That is through the lighterage piers?

Q. Yes.

A. And the other place we are looking, as I recall this, is involved in the actual station cost against 54 cars.

Those cars that went across there may have gone direct to the ship pier and never hit our station, is the only answer I can give to you at the moment.

Q. It is true, Mr. Heywood, you only show 54 cars in connection with car float?

A. With car float, with station cost involved.

Q. Yes, but you don't show any other cars in connection with car float freight on that summary sheet.

(No response.)

[fol. 1329] Q. In other words, as far as we can determine, there were only 54 loaded cars that moved in car floats in your study.

A. On the other sheet it says 114, Jersey City lighterage piers.

Q. That is something I would like to be straightened out on.

A. As I say, the one is over the lighterage piers in Jersey City and the other part, as I see it, is delivery in New York.

I will have to see if I can find the answer to that, sir, too.

Q. Mr. Heywood, I would like to get squared away on this Harsimus Cove bridge portion of the study.

You show, in your summary there, in the sheet we have just been looking at, that the costs developed on the preceding page in connection with Harsimus Cove float bridges are distributed amongst the 1044 cars that go to Desbrosses Street and Piers 49 and 50 is 114 cars which apparently go to the Jersey City lighterage piers. Is that a proper interpretation of that?

A. That would indicate, as you say, 889 went to Desbrosses Street and on car floats.

Q. Yes.

A. And 155 to Piers 49 and 50. But the other cars involved there went to our lighterage piers for lighterage purposes.

Q. Yes. I just wanted to get straightened out. I just wanted to be sure I understood what you said.

Now, the question before you actually is the explanation [fol. 1330] for the 54 cars indicated on your summary sheets in connection with car float freight—

A. Having station cost—

Q. Yes—but you keep referring to the fact it is under station cost, but no car float freight is shown elsewhere.

A. Yes, I understand. And I said I wanted to check the 114 going in the lighterage piers against that same 54. I am not sure it is not part of that same 54, let me put it that way. Because of the fact it says this all went to Jersey City lighterage, I am not sure this is part of the same figure, is what I am getting at.

I am not too sure it is. I think the 54 were car float, as different cars from the 114. Whether I have got enough detail to tell that here, I don't know.

Exam. Boat: Is this a convenient place to stop, Mr. Colgren?

Mr. Colgren: Yes, I think so.

Exam. Boat: We will recess until two o'clock this afternoon.

(Whereupon, at 12:30 o'clock p.m., the hearing in the above-entitled matter was recessed, to reconvene at two o'clock p.m. on the same day.)

[fol. 1331] AFTERNOON SESSION 2 p.m.

Exam. Boat: Come to order, now please.

J. L. HEYWOOD resumed the stand and testified further as follows:

Cross examination.

By Mr. Colgren:

Q. Mr. Heywood, I think, when we adjourned for lunch, we were discussing the 114 cars which apparently moved from Harsimus Cove Float Bridge to Jersey City lighterage piers and I was anxious to get a reconciliation of that figure of 114 cars with the 54 cars shown on your summary sheet as cars having moved via car float during September.

A. The 114 cars are the total, loaded and empty, and when you find the 54 on the summary sheet there loaded because that is what we finally come back to, the cost per loaded car, 54 is a part of the 114.

Q. Yes, now, Mr. Heywood, 114 is more than twice 54, is it not?

A. Yes, I would say it was about three—twice—over twice.

Q. Is this an indication of 100 per cent empty return movement? It is actually more than 100 per cent empty return, is it not?

A. It is more than 100 per cent but I do not say "returned empty," I do not know. Car floats must always be well balanced and possibly some cars are on the float when they go over there to bring some of the empties back—I do not know. That would take a pretty thorough investigation on that.

[fol. 1332] Q. On that same sheet and with reference to the 1044 cars which moved to Desbrosses Street and Piers 49 and 50, on Sheet D-3, your summary sheet, you show 554 cars against trucking in lieu of lighterage.

I think you will find 554 opposite marine costs on the summary sheets.

A. 554?

Q. Yes.

A. 554 trucking in lieu of lighterage.

Q. Yes—it is under Station Cost. Excuse me.

Again that one thousand forty-four cars is about twice the amount of 554 apparently shown under Load in your summary sheet. Does that again illustrate approximately 100 per cent empty return movement?

A. Yes, I assume the difference—I did not check that figure, but I assume the difference is empty.

Now, of course that is pretty near true on any floating of mostly freight across the river. Cars have to come back empty to get them off the float to get loaded ones on again.

Q. Is no freight, import and export freight originated at this Desbrosses Street Station or Piers 49 and 50?

A. Did you say import and export?

Q. Yes, by originated, I mean loaded in to cars at those stations. It would be import traffic actually?

A. Yes, I would say there would be some import.

[fol. 1333] Q. I am a little at a loss why we get the benefit in one instance of over 100 per cent empty return and in the other approximately 100 per cent empty return loaded against the import and export traffic costs.

A. Well, there might be several answers to that. I do not know if either one is correct but they might have come

in and the imported stuff is ready to move, so we bring empty cars over to get them out of there.

And vice versa, we may be bringing cars in to Harsimus Cove, loaded and get them over to the pier loaded and bring them back on the boat empty to get them over to the piers.

I cannot see any difference in that movement than that involved in perishables or any different, any material difference.

Q. Of course, Mr. Heywood, on sheet D-18, which is in connection with your station costs—the third sheet of your station costs, Mr. Heywood?

A. The third sheet?

Q. Yes.

A. Is it Desbrosses Street or New York area, or what?

Q. Desbrosses Street.

A. Or New York area.

Q. It is New York area, Desbrosses Street Station.

A. I guess this is it. Is the first figure 771?

Q. That is right.

[fol. 1334] A. All right.

Q. There you indicate down towards the bottom in the second column of figures, a figure for the number of cars, 1248.

That is apparently the total number of loaded cars handled at the Desbrosses Street Station during September, 1956.

Now, on sheet 13, which is your floatage costs—the second page I believe of your floatage costs.

A. Which sheet?

Q. Second.

A. 103380.

Q. Right. In that same column, the second column of figures, you show units handled at Desbrosses Street Station, 3,253.

That apparently refers to cars floated on account of Desbrosses Street during the month of September.

Can you explain the reason for the difference?

A. Do you mean between that and the 1248?

Q. Yes, sir.

A. Offhand, I would say to me the 1248 involved—Des-

brosses Street does not only handle—it handles forwarder business and some l-c-l, I believe. I just cannot see the tie-in of that 1248 yet.

Q. Mr. Heywood, the 1248, according to that first sheet I gave reference to, your station costs, that is our sheet D-18 includes—

A. 367 for carload and forwarder, 881.

[fol. 1335] Q. Yes.

A. That is right.

Q. Of course that makes it—I would still like to get an understanding of the 2,853 figure in connection with the floatage costs.

A. Well, on the station costs, that was actually cars, and some states.

And on this floatage cost, it appears we got "units handled."

Q. Well, what are those units, Mr. Heywood?

A. That is what I am trying on this to find out. I am a little mixed up here on that because I find down below we begin to call cars units again.

Q. That is right.

A. Down in the 855 and the 114.

I would say the units handled, 3,253 are the total.

Q. Well, Mr. Heywood.

A. Go ahead.

Q. Go ahead.

A. I was going to say the total cars handled at the pier. Whereas, when it comes to the station standpoint—that was the floating standpoint—from a station standpoint we are talking, I think, about those that—I was going to say "unloaded," but I am wrong about that.

The cars out of the 1248, I think I said they were the loaded cars at Desbrosses Street. They include both for-

[fol. 1336] warder and import.

Exam. Boat: In other words, they are the outbound and inbound cars.

The Witness: They are both cars. The forwarder traffic is eastbound, coming in to New York and the other import naturally is west-bound.

That is from a station standpoint and they are the cars, actually loaded cars handled from a station standpoint.

When we come to the float station there did arrive and depart from there from a float standpoint 3,253 cars.

Many times those cars come over and are unloaded. But for the import traffic they are not suitable, in some cases, and therefore they have got to go back empty and possibly other empties have got to come in that will take care of the import.

The relationship, the difference, in one sense of the word, between the station and the floats, is that on the station they are all loaded cars, either loaded in or loaded out.

The other is both loaded and empty and could be, in some cases, the movement in of loaded cars that could not be taken care of at the time.

There is a possibility of that. And they are naturally taken back to the yards again, because we have to keep the floats away so in fact, the other floats can hit the pier and [fol. 1337] so forth.

You have only so much float space and that is that much float space.

Q. Just for clarification, Mr. Heywood, you indicated that the 1248 cars include forwarder traffic and import traffic.

You did not mean to confine that to import?

A. Yes, sir.

Q. And not export?

A. Yes, sir.

Q. There is no export traffic?

A. Not at Desbrosses Street. The export is handled at 12th Street—what is known as the 12th street pier.

Exam. Boat: Is that the general pattern of your operation?

The Witness: Yes, sir.

Exam. Boat: Is that true, you handle exports out of 12th Street?

The Witness: Yes, sir.

Exam. Boat: And imports are handled in to Desbrosses Street?

The Witness: Yes, sir.

There is forwarder handled elsewhere in Desbrosses Street, also.

Exam. Boat: I might ask you this question while you are waiting. You mentioned this movement over Harsimus Cove. [fol. 1338] Float bridge?

The Witness: Yes.

Exam. Boat: And then to the Jersey City piers?

The Witness: No, I did not. Mr. Colgren called it that. I can clear that up, if you wish to have that 114 cars cleared up.

Exam. Boat: Just trace those movements.

The Witness: The 114 cars did not go lighterage, but it was in place of lighterage.

It is the rare occasion when we had the car, but put them on a float and took the float to shipside and it was taken out of the cars while still on the float at shipside. That is not ordinarily—

Exam. Boat: Or is that dock operation?

The Witness: No, it is not but it may be required when certain things have to be gotten across there to the ship quickly possibly. That is why it says Jersey City lighter—really that is what it should have been, lighter, instead of going over on the floats.

Exam. Boat: But that was in fact handled through Jersey City lighterage?

The Witness: No.

Exam. Boat: Handled direct from Harsimus Cove to the ship?

[fol. 1339] The Witness: Yes.

You see, Jersey City lies right there at Harsimus Cove. In other words, we have the float bridges and we have the lighter piers, both right at Harsimus Cove.

By Mr. Colgren:

Q. What you just said, Mr. Heywood, was slightly different to my prior understanding of what was represented to us by you as to the cars that were floated in Harsimus Cove.

I took from the designation Jersey City lighterage that the cars were destined for the lighterage piers?

A. No, sir, that is not correct.

Q. I see. Now, I take it you are in some way assigning the expenses of Harsimus Cove float bridges to the Jersey City lighterage account—would that be it?

A. No, not necessarily.

Q. All right.

A. We took them over by floats so we put all the costs involved in floating those cars involved on the floats.

Q. You also took the cars for Desbrosses street and West 12 street—or is that Piers 49 and 50?

A. That is 12th street.

Q. Yes—you also took those over on car floats, did you not?

A. Yes.

Q. And yet you called one and distributed one on a trucking in lieu of lighterage basis and on a per ton basis, where-
[fol. 1340] as the others you distributed on a per-car basis.

A. You are speaking of the 114 against 1044, I assume now?

Q. Yes.

A. That is correct.

Q. I do not believe that I am quite sure why you found it necessary to translate that car float traffic into tonnage. I think you suggested it was in order to reconcile your figures with those of the B & O?

A. Well—

Q. But I am not sure that I understand why that was necessary.

A. It was necessary in recapping the costs of the various elements at New York. The B & O had theirs on a ton basis. They said they could not put it on a car basis, and we so happened to have the tons that were involved in the particular cars and we said, all right, we will convert ours to a ton, in order that we can put them together, in recapping for the average cost at New York on the 1044 cars.

Q. I still do not understand why it was only with reference to that 1044 cars.

If that was necessary with the 1044 why was it not necessary with the 114?

A. Because the B & O did not have any of that class of car.

Q. Well, they had car float, didn't they?

A. Oh, yes.

Q. Which they distributed on a car basis?

[fol. 1341] A. Yes, and we left it on a car basis, that part of it.

But these particular cars that they came up with, or freight, a movement of freight, I should say, was on a tonnage basis.

I might suggest, if it is not clear to you and if I am not explaining it clearly to you, the B & O witness who prepared this is here and possibly he could clear that up much easier for you. But they demanded we put it on a tonnage basis and of course for that reason we put it on a—

Q. The only difference is it shows here higher cost as you showed specific allocation to specify commodity movements?

A. It did?

Q. I think so.

A. You are not sure?

Q. Actually I am not sure of much of anything.

A. I think we would have had it on a tonnage basis. If that had been so—

Q. That is what it seems to us.

When you take a car and run it over a float bridge and put it on a car float and take it to a station and there for the first time it is opened and the freight handled, up until that point, certainly the expenses relating to that car should be on a per car basis?

A. I did not see it that way.

Q. I do not think you did. You stated the same thing this [fol. 1342] morning. Suddenly we find—I do not say suddenly—we have been curious about this all along—that certain of the car-float traffic has been distributed on a per-ton basis.

A. Only these few cars, though. Not all of them.

Q. Well, that is 1044 cars actually as against some 114 which were retained on a per-car basis.

Well, perhaps we can clear that up later on. I trust the record is clear as to what happened.

A. I certainly hope so, but there seems to be a lot of doubt in your mind and possibly partially in mine.

Q. I really have not had what I think is a satisfactory justification for the treatment since the B & O did have car-float traffic and maintains, or rather, made a distribution on a per-car basis, and you have car float traffic and

you apportion some of it on a car basis and some of it, the major portion of it on a per ton basis.

Your explanation that it had to be that way to jibe with the B & O figures is a little hazy to me, yet.

A. The only amount of movement on the—that is, the amount of money on the P.R.R. basis is $3100. This was float bridge cost that we were distributing, not the floats or anything.

This was float bridge cost. That is what we are talking about at this particular point.

Q. If I may interject here, I think you will find that the marine costs also are allocated on a per-ton basis?

[fol. 1343] A. All marine cost is on a—wait a minute—not all of it, the car float end of it is on "car" and the lighterage is on "tons." The truckage is in lieu of lighterage, so that is tons, tons, again.

Q. The only difficulty with it is trucking in lieu of lighterage, that we are talking about right now, Mr. Heywood, is the fact it was not handled on a per-ton basis but on a car basis, on car floats, and that is precisely what I am talking about here, in trying to reconcile the fact that you have allocated these marine costs, float bridge costs, and even some of your station costs—

A. Yes, but station costs were—

Q. Excuse me, the station costs are all right.

A. Yes.

Q. But these marine costs and float bridge costs are still related to a ton basis; I still am rather lost in your explanation.

A. Do I understand you feel that lighterage cost and trucking in lieu of lighterage should be on a car basis?

Q. Yes, as long as trucking in lieu of lighterage is in fact what takes place?

A. Well, it takes place of lighterage, and lighterage, I think you have agreed, is on a ton basis, properly so.

Q. Now, Mr. Heywood, we were talking about cars that went through Harsimus Cove—float bridges—on to car [fol. 1344] float and were carried on to Desbrosses Street and Piers 49 and 50, in cars and they are unloaded?

A. That is right.

Q. And yet these expenses of the Harsimus Cove float bridges, the transit over the river, on a car float, have been allocated on a per-ton basis.

Naturally, if those cars had been unloaded on the Weehawken side, or the New Jersey side of the river, and actually trucked, in lieu of lighterage, we could not quarrel with your disposition of the costs on a per ton basis

I think that would be entirely proper. But I think that this is rather an unorthodox way of apportioning marine costs and float bridge costs on a per ton basis when, in fact, the car is still fully loaded.

A. I did not put any cars that went over the car float under marine on a ton basis.

Q. Yes, you have, Mr. Heywood?

A. Where?

Q. We went over that this morning.

A. Are you speaking of the 1044 again?

Q. Yes, that is right.

A. No, that is not car float. That is the float bridge. I tried to explain that a few moments ago.

Exam. Boat: I have a query here for you to please explain the movement of these particular cars, and that is the [fol. 1345] 1044. Will that clear it up for us if we get a statement here just how that movement took place?

Mr. Colgren: That is right. We are trying to reconcile, according to the costs themselves. They are handled through Harsimus Cove over a float bridge on to a car float and taken over to Desbrosses Street Station where the cars are opened and unloaded.

A. That is right.

Mr. Colgren: Is that correct?

The Witness: Yes.

Exam. Boat: Now, Desbrosses Street—that would be import traffic.

You handle only import at Desbrosses Street, you say?

The Witness: That is correct. Import and forwarder business.

Exam. Boat: That would be eastbound traffic?

The Witness: Forwarder business, put it that way. Import would be westbound.

Exam. Boat: That is what confuses me. I thought these were import cars that we were talking about, or are they forwarder cars?

The Witness: Which cars are we talking about?

Exam. Boat: The 1044.

The Witness: The 1044 are cars going from Harsimus [fol. 1346] Cove on the float bridge across the river.

Exam. Boat: To Desbrosses Street?

The Witness: That is correct.

By Mr. Colgren:

Q. And piers 49 and 50?

A. Yes.

Q. I understood you a little while ago, maybe this will clarify it and maybe not—but the forwarder traffic is export traffic, is that right?

A. That is—I would not say so.

Q. That was my understanding before.

A. I would have to check back on that to prove if it all was domestic, or whether some of it was as you say for export, or not. That I admit. This right here I do not know. And I do not know whether I can tell that or not, either.

Exam. Boat: I was wondering, Mr. Heywood, why import traffic would be moving in that direction?

The Witness: In what direction?

Exam. Boat: To Desbrosses Street.

The Witness: It is brought there from the ships on Manhattan Island for use to load into the cars going west.

Exam. Boat: But these 1044 cars I understand—these were not the cars that moved through Harsimus Cove float bridge?

A. Oh, yes, the 1044 did. They are going east.

Exam. Boat: But I cannot understand why import traffic is going east. Your import traffic is westbound, is it not?

[fol. 1347] A. Yes, that is right.

I did not say the 1044 were export. I did not say they were import. I said there were 1044 cars crossed the river. I have not said.

Mr. Colgren: Actually that is the basis upon which the costs are allocated.

By Mr. Colgren:

Q. In your summary sheet you show, I think, 544 cars—

A. Loaded, they are.

Q. Yes.

I am just trying along with the Examiner, to reconcile what is going on.

A. I am not trying to twist you up. I think you are twisting me up.

Q. I had a picture of how the stuff was moving, and the picture changes from time to time and it catches me off base.

Mr. Heywood, in your summary sheet, under Station Costs, we have opposite "Truckage" in lieu of lighterage freight, 554 cars.

I am trying to reconcile in my own mind—we have a work sheet here entitled "D-3" and apparently that was later corrected and the items allocated on a ton basis were restated on another sheet, so we have had to allocate things from another sheet, but there it indicated out of a [fol. 1348] total of 2482 cars, which we discussed this morning and on which the yard costs were allocated, 1874 of those cars are shown under lighterage freight under station costs, and 54 cars were shown for car float freight and 554 cars are shown in trucking in lieu of lighterage.

After the correction, I assume that the only one of those figures that still stands is the 54 cars opposite the car float freight, because the tonnage portion of that worksheet was restated, as I say, and there was no further reference to number of cars.

A. No reference to cars where?

Q. On the restated sheet.

A. What cars are you speaking of?

Q. What was that?

A. What cars are you speaking of?

Q. The 1874 and the 554.

A. I have that on a tonnage basis. Is that the corrected sheet you have or what?

Q. This is apparently the corrected sheet, one that is labeled "D-1".

A. I do not know anything about that D-1 stuff. I cannot comprehend those numbers.

Q. Can you see from there what this is? It is a restatement of cargo—

A. That is not the summary sheet I have. I think this is [fol. 1349] the sheet now. Wait a minute.

Yes, I have the sheet.

All right. Now, what was the figure? The number of cars?

Q. Well, actually on the corrected sheet there is no reference to cars, and we cannot any longer reconcile the tonnages with the cars, as we could on the previous sheet.

Would those tonnages on the previous—or rather, the number of cars shown on the previous sheet still stand?

A. Do you mean on the summary sheet, the cars 2482 and 554?

Q. That is right.

A. As far as I am concerned, I am still using those cars on the summary sheet.

Q. All right. We are here talking about those 554 cars.

Q. Now, Mr. Heywood, the only figure we can connect up with the 1044 cars shown in the Harsimus Cove float bridge costs is the 554 cars that we just discussed, shown opposite "trucking in lieu of lighterage freight" under "station costs," on your summary sheet?

A. Well, I think I said some time ago that these are loaded cars, on the summary, whereas the other figures on the 1044 are loaded and empty.

Q. All right. Now, our problem is why are they shown on a tonnage basis and opposite trucking in lieu of lighterage, when in fact, they moved in car float service?

A. I gave as an explanation before that trucking in lieu [fol. 1350] of lighterage, because otherwise if it was on a lighter it would have gone directly to the pier where the ship was tied up to receive the cargo.

Q. Well, Mr. Heywood, I do not think that we are talking about the same thing but I would be very happy if you could show me the accounts that are involved in that.

A. What do you mean?

Q. The cost distribution.

I think, formerly you testified to the fact that such trucking in lieu of lighterage which took place on the Manhattan Island portion of your facilities, from and to the steamship piers is an offset to revenues, a debit to your account No. 101?

A. That is right.

Q. But here we are actually talking about distribution of car float and float bridge costs rather than in fact trucking costs.

A. Well, we have the car float costs where it belongs.

Q. I do not think I am quarreling so much with your total costs, Mr. Heywood, so much as the fact you have dealt with them on a ton basis when we think it should be done on a car basis on the basis previously outlined that in fact it is actually car traffic, until it gets to the station.

I think we probably pursued that far enough but I am still—well, let me get this clear: It does not matter whether [fol. 1351] that traffic is actually eastbound or westbound—that is, import or export traffic—it still moves in cars from or to Desbrosses Street and Piers 49 and 50, from or to Harsimus Cove float bridges on car floats, and in cars?

A. Well, I have said—already said—that the eastbound traffic and the westbound from Desbrosses is moved by float, yes.

Q. Now, Mr. Heywood, I want to talk about station costs for a while.

They appear on our work sheets which are designated "15" through D-19.

They start with a summary sheet and are just labeled station costs and the background follows that.

Now, these station costs, Mr. Heywood, are developed on the month of September, 1956, and they are included in your port terminal costs, is that right?

A. Yes, sir.

Q. And on page—the first actual page of computations, our page D-16, you developed the cost for the Greenville piers separately between open cars, box cars and domestic freight and you show that the tons of domestic freight amount to 12,845 tons, which was almost double the import-export tonnage handled in box cars, is that right?

A. Where is this 12,000—did you say 12,000?

Q. Yes.

[fol. 1352] A. What is that—'way down at the bottom?

Q. Yes.

A. It must have skipped off my sheet.

Q. It is under the column headed "Domestic Freight," of course, under "expenses."

A. Under the "Expenses" columns.

Q. Yes.

A. All right. We have another one here. Wait a minute, that is tonnage, is it not?

Q. Yes, that is tonnage.

A. 12645?

Q. Yes.

A. I was looking for cars. I thought you said cars. That is what I was looking for. All right, I have got that.

Q. My comment is that was almost double the import-export tonnage handled in box cars, which is shown in the column immediately to the left.

A. Well, we did not say that was all import-export, did we, in box cars?

Q. I do not know of any other reason for your breakdown between domestic and the other two categories.

Can you explain why you have shown domestic freight at this pier, although there has been no lighterage or car floatage expense chargeable to this traffic on the preceding work sheets?

A. Are you speaking of this station cost at Greenville—[fol. 1353] why we haven't got that on our other work sheets?

I would swear I saw Greenville on the other sheet here, but maybe I am wrong. Let me see.

I have "Loading Costs" at Greenville 'way back on a sheet here. There is no number. I cannot tell you what sheet it is.

Q. Yes, there is floatage cost, but it does not reflect any domestic freight.

That is my question.

A. Where did we qualify what was at Greenville? Have you a sheet that qualifies it, at Greenville, that shows it as export and so on?

Q. It is all shown under "Lighterage."

A. Where?

Q. "Lighterage." Actually, Mr. Heywood, we did make an assumption, I think, in connection with your floatage costs.

I did not think we have a question.

A. Don't question. Good.

Q. Mr. Heywood, on the second sheet of your floatage costs determination—

A. Wait until I get this second sheet.

This second sheet is—

Q. 10233—

A. 233—

Q. That is right.

A. O.K.

[fol. 1354] Q. Under the column "Expense Column for Greenville Lighterage," and down towards the bottom, opposite "Total Units," you show 26,626 tons.

I think they are tons.

A. Yes, it is lighterage and it would be tons; yes, sir.

Q. Now, Mr. Heywood, apparently you have taken and distributed the total expenses of $133,031.79, at Greenville lighterage to that tonnage, so we have presumed that that was all foreign freight—that is, export-import freight?

A. It is all export-import, you say?

Q. Yes.

A. That is right.

Q. That is what we have assumed.

Is that a proper assumption?

A. Yes, sir.

Q. Now, back on your station costs again, Mr. Heywood, the first sheet following the summary sheet, our Number D-16—

A. Yes.

Q. 00 "Total of Open Cars and Box Cars" shown at the bottom of the sheet at Greenville piers equals this, 26,626 that we just discussed in connection with floatage costs at Greenville lighterage?

A. You say the open top—the open cars and the box cars.

Q. That is right, the figures for the open top are 19,672.6 and for the box cars 6,953.4 tons.

[fol. 1355] Now, my question was, Mr. Heywood, why this was not shown on domestic freight in connection with these previous cost determinations but it suddenly shows up in your station costs at Greenville piers here.

A. That domestic cost was taken out on other detail sheets, and they are not—I do not believe we brought those to Washington, because all we have here is what is applicable to the traffic we are interested in.

You had the opportunity, of course, to come to Philadelphia and look those over and you would have seen it, had you come down.

Q. We can be sure, then, there is no domestic freight—

A. That is right. No domestic when we get in here in the cost. Domestic is out.

Q. I was going to continue to say—in connection with floating costs.

A. That is right, Greenville piers.

Q. Then these are not actually the total floatage costs at these various stations?

A. No, it is not the grant total, no. That is on other sheets.

Q. It does not appear. We do not have these other sheets you refer to?

A. That is correct, you do not.

Q. That is the reason for having to question you in that fashion.

[fol. 1356] A. That is perfectly all right. I am perfectly glad to have your questions when you have one I can answer.

Q. Mr. Heywood, if they are already on other sheets, could we have the copies of those other sheets?

A. No, I think you can see them in Philadelphia, if you wish. I am not going to offer, and photograph a lot more of those sheets that have no relevancy here, in so far as we are giving you what is involved in this case here, and other than taking it. You can speak to counsel on that. If he says you get it, you get it. As far as I am concerned, no.

Q. Of course, Mr. Heywood, you must understand that we are only concerned here with making certain tests of your study?

A. That is right.

Q. And it is necessary that we have some of this additional information in order to make those tests. We do not want to quarrel with you.

A. I am not quarreling with you. You know better than that.

Q. Yes, I think I do.

Q. We would be perfectly willing, Mr. Heywood, to reproduce the sheets, I presume, if you would send us the originals, with the understanding you would get them back just as soon as possible.

A. If you have no objection, counsel, would you kindly consult with my counsel?

[fol. 1357] Q. All right.

Now, Mr. Heywood, on our sheet D-17, which I believe is still station costs, I believe it is the second computation for station costs, you show the development of costs at the Jersey City piers based on the month of September, 1956.

What particular piers were covered by this study?

A. Just a moment until I find that sheet. I thought I had it here, but I find I do not.

Q. It is the sheet immediately following the one we were just discussing.

A. Station costs—excuse me. I thought that was the summary sheet. I did not read it far enough. Our Jersey City piers I think are known as "K and L". And I think some lighterage—I would like to check on this again, I think some lighterage does go over "H" or certain freight is handled over "H".

Q. Those stations are "KLH"—the piers?

A. Or H.K.L., if you want to put them down the river. I thought of "H" later. I think some still goes off "H".

Mr. Colgren, would you kindly put "J" in there, also? I thought they had discontinued "J" but I am informed otherwise.

H.J.K. and L. We have four piers.

Q. To the total tons of 47,709 which is shown opposite, I suppose we might call it your footnote 1 down there—towards the bottom of the page.

[fol. 1358] A. Total tonnage.

Q. A total tonnage of 47,709, is that all the tonnage handled at these piers H. J. K and L, during the month of September?

A. Yes, it says through the station. Those are the tons—through the station.

Q. Over in the last column you show 2,170.8 tons of domestic freight handled at Jersey City piers. Does this cover all of the domestic freight handled at all of the Jersey City piers during the month of September, 1956?

A. Yes, sir.

Q. Was any of this domestic freight lightered?

A. Yes, certainly. If it went over—if it, by any chance, got over the H. J, K or L, it was bound to be lightered.

Q. Mr. Heywood, would it have been handled over any other piers than H, J. K or L?

A. You mean this particular 2,000 tons?

Q. Yes.

A. No, so long as it came through Harsimus Cove it would not and that is undoubtedly where it came through. It says Jersey City piers and that means it is connected through Harsimus Cove, as the yard.

Q. Are those four piers the only piers under this so-called designation "Jersey City Piers"?

A. Yes, sir.

Q. Mr. Heywood, again in connection with this Desbrosses [fol. 1359] Street Station, that is on your next sheet here—in connection with developing a station cost at Desbrosses Street chargeable to carload, and which is subsequently as-

signed to truckage in lieu of lighterage, you used 367 cars. You will find that—

A. That is right.

Q. You have got it?

A. That is part of the 1248 we discussed before.

Q. That is right.

Back on sheet "D-13" if you recall, I think we also discussed that you show 889 cars of export-import traffic that were floated, for account of Desbrosses Street station.

How do you account for this difference between the 367 and the 889?

A. Which sheet was this 889 on?

Q. That was on our sheet D-13. It is in your floatage costs, and I think it is the second—

A. The 889 is the figure we had where we were discussing the so-called 1044, I believe?

Q. No—

A. Pardon?

Q. No—

A. Yes.

Q. Actually it is a portion of the 3,253 that we previously discussed?

[fol. 1360] A. Yes, and the 889 is a part of the 1044.

Q. Yes, that is right.

A. Yes; now what is the question here?

Q. Well, we were discussing and wondering now, you show that being floated to Desbrosses street station and yet you assign station costs chargeable to carload on the basis of 367 cars and those, of course, were subsequently assigned on the basis of this truckage in lieu of lighterage, on a per-ton basis, but my immediate question, Mr. Heywood, is how do you reconcile this 367 and the 889?

A. That goes back to a question again—the 889 we are talking about.

Q. That is right.

A. The 889 cars were cars, as I recall it, moving east to Desbrosses Street, and the 367 cars are cars moving west with import.

Q. I am lost again, Mr. Heywood.

A. Very good. The 889 cars are part of the 1044 which

were cars moving from Harsimus Cove to Desbrosses Street. The 367 cars you call my attention to are cars moving from Desbrosses Street, west, with import traffic.

Q. Well, that totals more than 1044, does it not?

A. Oh, I do not say it does not.

Q. I am lost right there.

A. The difference between the 1044 and 889 were the 155 [fol. 1361] which went to 12th street, pier 49 and pier 50, which was still eastbound.

Q. Am I to understand, Mr. Heywood, those floatage costs involving the 1044 cars are the total export and import traffic through Harsimus Cove?

A. 1044 now you are talking about?

Q. Yes.

A. No, the 1044 cars you are talking about are all eastbound cars.

Exam. Boat: That is the point of difficulty here. I got the impression they were all import or export business but they are just cars—that is all they are.

A. That is all they are. I have never said what they were. They are not import, we know, because they would not be moving east.

By Mr. Colgren:

Q. That was going to be my next—

A. And no export to Desbrosses Street—comes from Desbrosses Street, I should put it. Or to it, whichever way we are working on it.

Q. Mr. Heywood, right now east is west and west is east, as far as I am concerned.

A. That is right.

Exam. Boat: That is where I was a bit ago. I finally got it out of him that it is not confined to import and export movements. It is all cars, apparently, that they [fol. 1362] are handling in these particular movements.

The Witness: The 889 cars going east to Desbrosses Street are, I would say, forwarder cars.

By Mr. Colgren:

Q. Would they not necessarily be exporter traffic?

A. I would not say to that. As I said before, I was not sure whether this was some local or not. I say they are forwarder cars.

Q. If you are not sure—I mean, are you sure now?

A. I am sure now.

Q. Yes.

A. No, I said I was not. I would have to go back and check and see if I could determine and split the 889.

Q. What I cannot determine, Mr. Heywood, is how you determined whether these cars are eastbound or westbound?

A. How they are eastbound or westbound?

Q. Yes.

A. You are talking about the 1044?

Q. Yes.

A. Well, now, let us go back to that for a moment and see if we can get this 1044 straightened out. If I can find that sheet again.

We are talking about the cars that went over the float bridge, again?

Q. That is right.

[fol. 1363] A. And the 889 is going—is Desbrosses Street.

And here the 155, as it is stated, is Pier 49 and Pier 50.

The 114 that we spoke about—they were floated to ship-side.

Now, as I have said before, I would have to go back further and I have not that paper here, evidently—I cannot seem to locate it—to tell me what the 889 actually is, whether all forwarder, or whether some of it is export forwarder, or whether there might be mixed in there some empty cars which I think there are, moving west.

And some of it could move east to go over to get loaded, too.

That I do not have right here in this file, in these papers here, to give me that detail.

I do not know whether we have got all those with us or not. We have got quite a few papers, but I would have to go back into them to find out.

I would be very glad to look into it and if I have them available here, give you the answer and if not, I will attempt to get them from the other papers at home.

Q. We think it is rather important, because you have assigned your Desbrosses Street Station, your float bridge costs, to traffic going to Desbrosses Street Station on the basis of these 889 cars?

[fol. 1364] A. That is right.

Q. And if they are not, in fact, export and import—

A. No—

Q. —cars, we would like to know about that. Of course, Mr. Heywood, in your floating cost computations, under Desbrosses Street you show units handled of 3,253.

What are those units?

A. Well, I think I said before what they were. They are inclusive of both loaded and empty cars.

They are all cars taken over to Desbrosses Street: Loaded in and loaded out, empty in or empty out—it could be any one of four.

Q. Well, of course, that brings us back again to this question of the 367 cars.

Exam. Boat: We will take a ten-minute recess.

(Short recess.)

Exam. Boat: Come to order, please, gentlemen.

By Mr. Colgren:

Q. Mr. Heywood, with reference to these 367 cars, I believe a little earlier I asked you if you could reconcile the difference between the 367 cars and the 889 cars of export-import traffic floated for the account of Desbrosses Street Station?

A. I do know that the 367 are import cars going from Desbrosses Street over to Harsimus Cove.

The 889 cars, as I have said before, are inclusive of [fol. 1365] loaded and empty cars.

I do not know what freight was in them and they can be running in either direction.

Q. Now, Mr. Heywood, there would not be anything other than export or import freight or empty cars, which had had export or import freight, in that 889 cars, is that correct?

A. That is a correct statement, yes.

Q. Just to clarify my own mind on the thing it is your testimony the 367 cars are westbound loaded cars, right?

A. Import.

Q. Yes.

A. Yes.

Q. On our sheet "D-18" Station cost at Desbrosses Street—that is where we see this 367?

A. Yes, that is right.

Q. How did you ascertain the tonnage shown in connection with those 367 cars? It is 10,549 tons.

A. Ten—is that on that sheet or am I looking at the wrong sheet?

Q. Yes, it is just to the right and the line next below the 367.

A. I beg your pardon. 10,949 tons?

Q. Yes.

A. Why, on this particular stuff, knowing that this was import and one of the things we were interested in at the [fol. 1366] pier, we went back to the pier records and transcribed that information from the waybills.

Q. Mr. Heywood, you have distributed your carloaded expenses for Desbrosses Street on the basis of those 367 cars?

A. Yes.

Q. Then the 889 cars, shown as floated over to Desbrosses Street—the difference between 367 and 889, must have been either empty cars or cars containing other freight, right?

A. Other than import. I think your first statement as to empty cars is more correct than anything else.

Q. Again we find here, Mr. Heywood, do we not, that it is over 100 per cent, if we assume they are empties?

A. That is all the empties handled—not only import, but involved around the forwarder business handled there, and there is some l-c-l business handled there, too.

Q. Of course you do not include your forwarder traffic in

the allocation of costs. But is what you are saying that the marine costs which are allocated on the basis of the 889 cars is possibly inclusive of forwarder traffic?

A. That is what I said I did not know—the breakdown of the 889.

Q. Mr. Heywood, I think we are almost forced into the assumption that the difference between 367 and 889 cars, or 522 cars are empty cars, is that not right?

A. I said that was the correct assumption—that I would [fol. 1367] agree with you, when you said that before.

Q. Yes. You realize that is almost 150 per cent empty return?

A. And I tried to qualify that and say that was not only involved around import traffic.

Q. Then the floatage cost should not be assigned to import and export traffic, if they were not import and export cars. Is that not right?

A. I—not if they were not import and export, no.

They may have been empty, involved with the import problem.

Q. Is there any way we can reconcile that?

A. No, I do not know any—only the fact—reconcile what, about the empty appearing so much heavier than the load—

Q. Yes.

A. Well, the only way I can reconcile it is the fact these cars have moved over empty to load the import, and also that there may have been other empties involved leaving there, and that would be at least equal or double whatever the figure you say it is, of the loading—import only.

Q. Well, I guess we have pursued that far enough, Mr. Heywood. In your attempt to shorten this a little bit would your conclusion be the same with reference to the 155 cars shown floated from Harsimus Cove as against the 74 cars shown as the basis for distribution of expenses of [fol. 1368] trucking in lieu of lighterage for piers 49 and 50?

A. There are empty cars involved in the 155, yes.

Q. Well, that is actually the same thing that we have been discussing in connection with Desbrosses Street.

A. Where did you get the 74?

Q. That is on the next sheet, in the fourth column of figures, opposite cars, down towards the bottom of the page. The figure 74 is actually under that $487.51 which is encircled.

A. Yes, that is a correct statement of what is involved—the difference between is the empty.

Q. In connection with those 74 cars, you show the last figure, in that same column, 1225.3 tons in connection with those 74 cars.

A. Yes.

Q. This amounts to 16.6 tons per car.

Now, at Desbrosses Street I think you showed 28.7 tons per car, in connection with the 367 cars we previously discussed.

Can you account for the difference in tonnage between these piers or the cars using these different piers?

A. The only thing I can account for is the different type freight.

Q. What is it that is handled at piers 49 and 50?

A. Generally speaking export and general merchandise.

Q. Do you have any idea, Mr. Heywood, what would ac- [fol. 1369] count for that difference you have indicated, that probably different commodities were being handled, but does your knowledge extend any further than that?

A. Well, the difference between import and export freight would have a great deal to do with it and that is a difference in the commodities.

Q. Well, I hardly know how to ask it, Mr. Heywood, but what differences would come to your mind that would create the difference in loadings?

A. In loadings?

Q. Yes. I mean the average loadings you have shown?

A. I would think my exhibits 1 and 2 and possibly 5 and 6 would show you the difference in loading in imports and exports and as to commodities which are handled.

Q. You mentioned there differences in method handled—

A. Method—I did not say method.

Q. I do not recall what you said but I was trying to—

A. I said a difference in the commodity would naturally

have a tendency, export and import being different commodities, would have a tendency, what the load was, what the commodity is.

Q. Mr. Heywood, again we run into this proposition, in developing the total cost at West 12th Street—incidentally, is that synonymous with piers 49 and 50?

A. Yes.

[fol. 1370] Q. You place the total cost on 2,081 cars, whereas back on Sheet D-13 you indicate 4662 cars were floated to the account of West 12th Street?

A. Yes, the 2081 were the loaded cars.

Q. Yes—

A. And the other would be inclusive of empty and loaded.

Q. As I understand your answer here is similar to the answers you have given me before in relation to these discrepancies—

A. Discrepancies?

Q. —differences—excuse me.

A. That is better.

Q. Mr. Heywood, in developing the floatage costs on your work sheets which are headed in our set "D-12" through D-14, these costs were based on the month of September, 1956, right?

A. That is right.

Q. And referring to your work sheet Numbered D-12 you show the cost separately for Desbrosses Street, west 12th Street, Jersey City car float, Jersey City Lighterage, Greenville Lighterage, and for grain, right?

A. That is right.

Q. In connection with the Desbrosses Street and West 12th Street station expenses you segregated these expenses between export and import, and "other" on the basis of the relationship between the export-import cars to the total [fol. 1371] cars handled separately for these two facilities, is that right?

A. Yes, sir.

Q. And the Jersey City car float expense and the Jersey City lighterage and Greenville lighterage and the grain costs were not a portion of the entire expense as charged to export and import freight, is that right?

A. No, not—you mean on these—the station, are you speaking about now, or are you back at the floatage?

Q. No, these are floatage costs.

A. Yes.

Q. Why were the entire expenses for Jersey City lighterage, Jersey City car float and Greenville lighterage and grain assigned to import and export freight?

A. On these sheets that was all right because we had the rest taken out by that time.

Q. Can you show us—

A. No, I have not the sheets. I explained that before. They are on other sheets that we have not got with us.

Q. Actually, some of that information I asked for in my letter of February 20 was that sort of information, was it not, Mr. Heywood?

A. No, I do not think so.

You were asking for a number of units that were handled at different stations, as I recall it, after you had asked [fol. 1372] for the total minutes and hours in the switching study.

Then you went on asking the marine cost, or marine cars, and tons, and what not, by stations, as I remember.

Q. Yes, that is right, and we felt we needed the total expense and the expenses charged to other services for testing purposes.

A. Well, you did not—I do not recall your asking for expenses in that letter, I can be wrong, but I do not think you did.

Q. Well, yes—

A. I think it was units.

Q. You are probably correct.

A. Yes, units.

Q. Mr. Heywood, on our sheet D-14, and I think it is the next one to the one you are looking at, the floatage cost at Jersey City and Greenville pier stations are totaled and then allocated on the basis of the relative proportions of box cars and open-top cars.

You show 70 point 18 per cent for box cars, and 29.82 per cent for open-top cars, right?

A. I do not think I have got the sheet you are referring to. It does not seem to be next to the one I am looking at.

Q. You will find those percentages I just named under the bracket there.

A. Was that 70?

[fol. 1373] Q. Yes.

A. —.16 and 29.82?

Q. Yes.

Now, if we go to our work sheet D-17 which is entitled "New York Area Station Costs," the proportion of box-car freight at Jersey City lighterage station can be computed as 99.2 per cent?

A. Jersey City piers?

Q. Yes—no, Jersey City lighterage. I do not know whether there is a difference there.

A. It must be on another sheet. I have got Jersey City piers here.

Q. Mr. Heywood, I think I left you by saying that the proportion of box car freight at Jersey City lighterage station can be computed as 99.2 per cent.

That is done on the basis of the tons shown on the sheet that you have that I referred you to there.

A. Do you mean that 40729?

Q. That is right, plus 331.

A. This is—what point is it? The piers, the Jersey City Piers?

Q. That is right.

A. Or are you speaking of any particular place?

Q. No, the Jersey City Piers. You have the right sheet in front of you, I am sure.

[fol. 1374] A. All right. That is the open top and the—

Q. The box cars.

A. And the box cars.

You say that is 99 per cent of the total?

Q. Yes, sir.

A. 3,460, 47,709—it could not possibly be 99.

Q. The total of the box cars?

A. Oh, the box cars, taking the 2 counts, 331?

Q. Yes.

A. I will go along with that, yes, sir.

Q. Now, similarly, on the preceding sheet, at Greenville piers, the proportion of box car freight can be computed as 26.1 per cent. Does that look about right to you?

A. Well, let us see. What percentage did you say?

Q. 26—actually I have 26.1.

A. Yes, that is about right. It might be a little low. You are speaking of 19672 and the 6953?

Q. Right.

A. Yes.

Q. Now, then coming back to the floatage costs that we were discussing a moment ago and the apportionment on the percentages you show on our work sheet "D-14"—

A. Do you mean the 99 per cent?

Q. No, prior to that.

It is back about 3 pages, I think. That is it.

[fol. 1375] A. This is the floatage now we are talking about?

Q. Right, we are talking about the apportionment of expenses as between box cars and open cars, and if you recall, we already mentioned that the percentages you developed were 70.18 for box cars and 29.82 for open top cars.

Now, Mr. Heywood, that allocation was made after your two columns of expenses were combined. Is that not right for Jersey City and Greenville piers?

A. This is the total floatage cost at New York on foreign lighterage freight.

Q. Yes, the heading is such as to indicate they are for Jersey City and Greenville, right?

A. Yes.

Q. The computation has been made in applying these percentages against the percentages we developed just a minute ago, the 99 per cent and the 26 per cent, the percentage of box cars against open top, that if those percentages had been applied to the individual totals of lighterage expenses at Jersey City lighterage and Greenville pier stations, that by following that method it resulted in

reducing the lighterage cost per box car ton by about 32 cents. Will you accept my computations in that respect?

A. I will accept your computations, yes.

Q. Well, will you go a little further with me and agree that those figures should be individually—those columns [fol. 1376] should have the individual application of the percentages made before being combined in the ultimate figure?

A. No, I do not think I can accept that, no.

Q. Well, I guess that is just a question of judgment of statistical approach, Mr. Heywood, and we can argue that later, I guess.

Mr. Heywood, is it not true that with respect to the cost for maintenance of floating equipment the B & O cost study uses a three year average to develop the cost for the month of September, 1956, whereas the Pennsylvania used the amount reported in the September, 1956 operating expenses?

A. I am not sure what they used. I would not say yes or no to that. If you want, I will be glad to tell you in the morning—definitely in the morning.

Q. Well, I think that would be satisfactory as far as the B & O is concerned.

You cannot tell me of your own knowledge as far as the Pennsylvania—

A. The Pennsylvania was 3 years—one year. I am not sure about the B & O. I cannot tell you how they went. We were all supposed to work similarly, I know. You say it is three years. I do not want to agree or disagree with it.

Q. Yes, I believe that is accurate for the B & O. I believe we have that information from Mr. Talbott. Now, as far as the Pennsylvania is concerned, I think we have rea- [fol. 1377] son to believe it was for the month of September, 1956 that you took the maintenance figure, rather than for the year 1956?

A. Well, let me check and I will give you the facts tomorrow morning.

Q. Yes, sir.

A. Correctly, as to just what we did, and what the B & O did.

Q. Yes. Now, if it develops that it was for the month of September, 1956, would you be good enough to furnish us the annual figure for the year 1946?

A. For the maintenance of the floating equipment?

Q. Cost of maintenance of floating equipment?

A. Yes, I will read the figure out of the annual report to you.

Q. Your annual report will not show the New York figure separately, will it?

A. Oh, you want only New York?

Q. Yes.

Actually, in your study, Mr. Heywood, you have broken it down by types of equipment—tugs, barges, lighters?

A. Yes, and is that the way you want it for the year?

Q. Yes. I would like to have that. Actually I would be satisfied with barges.

A. We'll see what we can do. We may have that available and I would be glad to give it to you if it is. I am not [fol. 1378] too sure how far we went to break that down for the month.

Q. Mr. Heywood, did you form any opinion as to the adequacy of the tonnage figures you were dealing with, from a representative standpoint?

A. No, I do not say that we did, we took the month of September, and proceeded.

Q. Well, that is true, as far as the Pennsylvania Railroad is concerned.

Perhaps I should pursue this with Mr. Talbott, but I was wondering if you might agree that the B & O tonnage for import and export traffic for the month of September is subnormal?

A. I would not know.

Q. Mr. Heywood, in your exhibits 3 and 4, and of course five and six, now, did you make any adjustment in the Form A line-haul and inland terminal costs shown in your exhibits to eliminate the costs for marine and harbor operations which have been included in your cost studies?

A. No.

Q. —for the port?

A. No.

Q. To the extent that marine and harbor operations costs find their way into those form A line haul and inland terminal costs, they are duplicated then, are they not?

A. Well, they may be considered in the general average, yes.

[fol. 1379] Q. I do not know whether that answer was responsive—whether it was an answer or not, Mr. Heywood.

A. I swear I cannot tell you whether it was or was not, for your sake. I can tell you it was for mine.

Q. Well, I think it is susceptible of a yes or no answer. I am just asking you if there are elements of marine and harbor operation expenses included in Form A line haul and inland terminal costs, to the extent that they are in there, and also covered in your port cost study, they are duplicated, are they not?

A. Well, you can call it duplicated, if you want. I say that undoubtedly they are in the general average, yes.

Q. Well, yes, I guess your answer was responsive. By general average you mean they are included in the Form A units—

A. Yes, the Form A—

Q. That go to make up the costs.

Now, Mr. Heywood, you have introduced exhibits of import and export traffic via the Port of New York showing fully distributed costs in your exhibits 1 and 2, is that not right?

A. That is correct.

Q. And out-of-pocket costs in exhibits that followed that —three, four, five and six?

A. Yes, sir.

[fol. 1380] Q. In the fully distributed costs, what rate of return did you use?

A. Six per cent.

Q. Was this before or after income tax?

A. No income tax.

Q. In the out-of-pocket costs what rate of return did you use?

A. Six per cent.

Q. Was this before or after income taxes?

A. After income taxes.

Exam. Boat: What is the basis of valuation upon which your computing that was done?

The Witness: Book.

Exam. Boat: Book cost?

The Witness: Yes, book.

Exam. Boat: That would be true as to the yard costs, also?

The Witness: Yes, any valuation we used, yes.

Exam. Boat: By book investment, do you mean net investment?

The Witness: Oh, yes.

By Mr. Colgren:

Q. Mr. Heywood, referring to your special studies of port costs which you developed for the PRR, B&O and Central of New Jersey were these studies substituted for the Form A terminal cost studies in your exhibits 1 through 6?

A. Yes, sir.

[fol. 1381] Q. And do the special port costs include an allowance for return on investment?

A. Yes.

Q. Was this amount before or after income taxes?

A. Before.

Q. In Form A what is the percent of return on road property which is considered out of pocket?

A. 50 per cent.

Q. What is the percent of return on equipment which is considered out of pocket?

A. 100 per cent.

Q. What per cent of return on road property did you compute as being out of pocket in your Port study which you substituted as the terminal factor in rail form A?

A. Six per cent on the total.

Q. I do not—let me read my question again. I mean, what is his per cent?

A. Six per cent.

Q. Mr. Heywood, I have reference to the same type of percentages which were in my previous two questions.

I will restate my question: What per cent of return on road property did you compute as being out-of-pocket in your Port study which you substituted as the terminal factor in rail form A?

A. Six per cent.

[fol. 1382] Q. Well, perhaps we can get at it this way, Mr. Heywood?

Is it not true that, when you restated your exhibits 1 and 2 as revised to an out-of-pocket basis, you did so by applying or taking an 80 per cent factor for all of the elements therein?

A. 80 per cent out of pocket, yes.

Q. And that includes the return on investment—I mean, including a return on investment?

A. Income on investment was included as a part of our cost, yes.

Q. So you took 80 per cent of the six per cent, right?

A. No, not that I recall. We took 80 per cent of the expenses and then added the 6 per cent return.

Q. Have you taken six per cent of 100 per cent of the road investment at the port in your—

A. No, wait a minute. That seems, where there is—there is some confusion there, I believe.

The last question if I understood correct, you asked me, you are talking about the Newport terminal special studies we made—right?

Q. That is right.

A. That is what I understood we were talking about. The answer to that is we took 6 per cent on the property and on the out-of-pocket, we took 80 per cent of that.

Q. Thank you.

[fol. 1383] Mr. Heywood, did you make a study to deter-

mine what the actual out-of-pocket percentages were for marine operations in New York Harbor?

A. No, I did not make any special study.

Exam. Boat: Is this a convenient time to stop, Mr. Colgren?

Mr. Colgren: Yes.

Mr. Bongartz: Off the record.

Exam. Boat: Off the record.

(Discussion was off the record.)

Exam. Boat: On the record.

We will recess now until 9:30 tomorrow morning.

(At 4:50 p.m. the hearing was recessed until 9:30 a.m., March 27, 1958.)

[fol. 1384]

BEFORE THE INTERSTATE COMMERCE COMMISSION

I & S Docket No. 6615

ISA Docket No. 32204

[Title omitted]

Met, pursuant to adjournment, at 9:30 a.m.

Before: Marion L. Boat, Examiner.

APPEARANCES:

(As heretofore noted.)

[fol. 1386] PROCEEDINGS

Exam. Boat: The hearing is in order.

Thereupon J. L. Heywood resumed the witness stand and testified further as follows:

Cross examination (continued).

By Mr. Colgren:

Q. Mr. Heywood, in connection with your Exhibit 50-A, and your supplementary statement in connection with the exhibits attached to your exhibit 50-A, numbers 5 and 6, according to your explanation you used the test of one thousand tons or more as the basis of whether or not you would include the commodities shown in your cost statement; is that right?

A. That was the decided point, 1,000 tons and more.

Q. Mr. Heywood, in actual fact down towards the bottom paragraph of page 1 of your supplementary statement, you say "In addition to the New York out-of-pocket costs have been applied to ten commodity groups, where the 1000 ton minimum was handled at either Baltimore or Philadelphia."

A. Yes.

Q. Shouldn't that actually be 12 commodity groups?

A. Yes, sir.

Q. And in the next sentence it should be 52 commodity groups?

A. That is correct. There is 52 in the total number on [fol. 1387] the sheets.

Q. There were two commodity groups according to Mollman's exhibits which moved in 1,000 tons or more which were omitted from your study, namely group No. 69, fruits, which moved in a quantity of 1,280 tons, and commodity group No. 1519, oils, which moved in a quantity of 1,000, 439 tons through New York in both instances.

Is that right?

A. That is my understanding, yes.

Q. Also there were two commodity groups, No. 43, soybeans and No. 317, zinc ores and concentrates which did not move through New York at all, but were included in your study, is that right?

The commodity group 43 was included in your export statement and commodity group 317 was included in your income statement.

A. That was part of the extra commodities that were put in that were not through the Port of New York.

Q. Yes. Now, Mr. Heywood, there was indication yesterday in response to one of my questions concerning the cost for maintenance of floating equipment in which it was indicated that the Pennsylvania railroad cost, or rather, in computing the Pennsylvania railroad costs you had departed from the month of September expenses as reported and used some other period—I think you referred to a year. [fol. 1388] Would you supply whatever is necessary in the way of figures used and the method followed in calculating the amount used which is not disclosed in the underlying papers previously supplied to us?

A. Yes, we will have to work that up.

Q. Mr. Heywood, also, would you supply the figures and the calculations made in any other instance where the Pennsylvania railroad has departed from the 1956 figures as reported in formulating the port cost study on export-import traffic for the month of September, 1956?

A. Do you mean you want the month of September?

Q. No, I am asking you to supply the figures and the calculations made in any instance where the Pennsylvania Railroad has not used the month of September?

A. Oh—where they have not used the month of September.

Q. Yes.

Mr. Colgren: It should not take very long and be readily determinable from your work sheets where you have not used the month of September, 1956 figures as reported.

We have no way of determining that.

Mr. Bongartz: I understand your question. I said we would undertake to try and do it. I do not see how you can say how readily it would be available or what would be available.

We will have to see how it is.

[fol. 1389] Mr. Colgren: I think we could expect to get them fairly quickly.

Mr. Bongartz: We will do what we can for you in that regard.

Mr. Colgren: I would appreciate that.

By Mr. Colgren:

Q. Now, Mr. Heywood, throughout the cost study, in various places there appear various credits.

Is it your thought and opinion, if you please, that credits have a place in a cost study made to determine the costs of certain particular operations?

A. Yes, certainly. Certain credits where you can't take the expenses out. Therefore, it is an offsetting against expenses you cannot remove, where it is impossible to do it. I say yes, the credits are an adjusting factor, and properly so.

Q. Well, Mr. Heywood, would that extend to the point where the credit is a major item?

A. I do not know what you mean by a major item.

Q. I mean so large as to materially affect the purported resulting cost?

A. I still do not know what you mean. You have got to qualify it to give me more information for me to give you an answer on that.

Q. I have one particular instance in mind and that is the handling of grain which you show in Baltimore, where, [fol. 1390] instead of a cost for handling grain, you actually come up with a plus figure.

Do you think that plus figure is representative of the costs of handling grain at Baltimore?

A. Well, under the conditions down there and the fact that we put that exhibit in, yes, it is all right.

Q. In other words, your costs are negative for handling the grain in Baltimore, is that what you mean?

A. Evidently it is. It is a credit yes.

Q. Now, Mr. Heywood, Mr. Mollman's exhibit or traffic study shows at pages 32 and 36—this is Mr. Mollman's No. 2—

A. I do not know Mr. Mollman's exhibits, sir. It is bad enough to handle my own.

Q. I am just going to state a total here, which I think you will probably agree with. At any rate at pages 32 and 36 it shows a total of 2,318,644 tons of export and import traffic moving through New York via the protestant lines, during 1956.

Now, an average month from those figures would result in 193,220—

A. You understand Mr. Examiner these numbers Mr. Colgren has been calling out, D-1, D-2 and everything else, are not on anything you have or I have or anybody else but him. I do not know what you are going to do to find it.

Exam. Boat: I think it is unfortunate that the working sets were not numbered.

[fol. 1391] Mr. Colgren: It is our page D-2 and it is actually the summary sheet of terminal studies, where the three roads, B & O, CNJ and PRR cost figures are gathered together.

By Mr. Colgren:

Q. On page D-2, Mr. Heywood, of your study, you show you have distributed per ton costs on the basis of 143,843 tons.

Actually, that is a calculation, but it is readily made from the first column of figures on that page.

A. I must be looking at the wrong page again, I do not see it. O.K.

Q. Do you agree with that, Mr. Heywood?

A. Yes, I have got it now.

Q. And the figure I named is correct—143,843 tons.

A. Yes.

Q. Have you any idea at all what the cost per ton would be if your computations had been based upon 193,220 tons, rather than 143 tons, 143,843 tons you used?

A. No, I do not.

Q. You will agree that it would have a tendency to reduce the per-ton costs.

A. Not necessarily. I may be moving more cars with 192 and switching more.

Q. Yes. It would increase your divisor into the costs that might develop from the use of those?

A. Yes, it would increase the costs, just as much as the [fol. 1392] tons being increased, too.

Q. Well, there is some question about that, Mr. Heywood?

A. Well, not in my mind. It must be yours.

Q. Now, Mr. Heywood, you have developed basic costs for lighterage car float and truckage in lieu of lighterage, which have been applied on the basis of the tonnage accorded those figures, is that right?

A. Lighterage and in lieu of lighterage is tonnage, yes, sir.

Q. Yes, sir—I should have said units applicable instead of tonnage, I think.

Now, would you agree with me a change in the relative proportions of the services rendered at the port, such as lighterage, car float, trucking in lieu of lighterage, or a service known sometimes as wheel-to-keel service could have a considerable effect upon the total costs?

A. I am not in the phase of looking into a crystal ball and guessing. Here are our costs. There it stands. That is what I am standing on.

Q. All I am saying if you varied the percentage of that, of the various services which resulted in different unit costs which differ one to another, if you applied different percentages to those costs it would necessary vary.

A. I would have a different cost study, yes, sir.
Q. Yes, sir, that is all I wanted to establish.

Mr. Colgren: Mr. Heywood, I believe that concludes my [fol. 1393] cost examination, thank you.

The Witness: Thank you.

Mr. Colgren: Mr. Examiner, I have some questions which I think were referred to Mr. Talbott of the B & O.

Mr. Myskowski: Mr. Examiner, I will have a few questions of Mr. Heywood, but I thought you would want to get Mr. Talbott, in line with what Mr. Colgren is trying to develop and then we could get Mr. Heywood back on.

Mr. Colgren: I would like to conclude my portion of the cross-examination first.

Exam. Boat: I think that would perhaps be best.

(Witness excused.)

E. M. TALBOTT, a witness was sworn and testified as follows:

Mr. Langdon: Mr. Examiner, before Mr. Talbott is turned over for cross examination, I would like to ask a few preliminary questions.

Direct examination.

By Mr. Langdon:

Q. Mr. Talbott, did you undertake to have made a cost study of New York Harbor terminal operations for the account both of the B & O and the Jersey Central?

A. I did.

Q. Was that study made in close coordination with the Pennsylvania Railroad?

A. It was.

[fol. 1394] Q. For a comparable study?

A. Yes.

Q. Will you briefly just state the final results obtained under your study of the B & O and the Jersey Central for New York Harbor Terminal costs as submitted in this case.

Now, these costs will apply only on the B & O-Jersey Central, as I understand it?

A. Yes.

Exam. Boat: These are comparable to the summaries shown in Mr. Heywood's exhibits?

The Witness: I think they are included in the working paper.

Exam. Boat: But they are for the B & O and Jersey Central, only?

The Witness: Yes.

Mr. Bongartz: They would be comparable to Mr. Heywood's work papers that he has been cross-examined on.

Exam. Boat: In other words, they are comparable basic data which entered into Heywood's summaries?

The Witness: Yes, sir.

Now, for box cars the cost on a per-ton basis is $8.95.

On a per-car basis it is $45.77.

Open top cars, cost on a per ton basis $7.79.

Cost on a per-car basis, $46.59 cents.

[fol. 1395] By Mr. Langdon:

Q. If I may interrupt at that point, when you say cost on a car basis, do you mean those elements of costs which are variable with cars?

A. Yes.

Q. When you refer to costs on a ton basis, you mean the additional costs which are variable on a ton-basis, is that correct?

A. Yes.

Q. So in order to get the total cost you have to add the two together?

A. In order to arrive at the total cost per car you would multiply the unit cost per ton and add to the result the car cost to get the total per-car cost.

Q. Did you give all those final results?

A. We have a few refrigerator cars that move on and the cost per ton was $72 and the cost per car, $46.15.

Exam. Boat: All right, go ahead.

By Mr. Langdon:

Q. One final question, Mr. Talbott:

Roughly how long were you and your associates engaged in the making of this cost study?

A. I suppose it extended over a period of around 3 or 4 months—3 to 4 months, I would say.

Mr. Langdon: That is all I have.

Cross-examination.

By Mr. Colgren:

Q. Mr. Talbott, in response to Mr. Langdon's questions [fol. 1396] you indicated your study was made on a comparable basis to the study made for the Pennsylvania Railroad at New York.

Do you have a service similar to the trucking in lieu of lighterage that was discussed on the record here yesterday between myself and Mr. Heywood?

A. We have trucking in lieu of lighterage.

Probably I should explain that. There may be some difficulty, or some difference on the B & O Railroad.

In other words, we handle lighterage traffic through our St. George facility, and also through the Consolidated Central Railroad joint terminal at Jersey City.

We have some trucking in lieu of lighterage from St. George and also from Jersey City.

Q. That actually moves in trucks?

A. Yes, and in addition to that trucking in lieu of lighterage, we also move cars on car floats to our pier stations in New York and truck from those stations into a lighterage at a steamship pier.

Q. Now, in applying your costs did you include in your trucking costs that portion of the movement by water from St. George to your Manhattan piers in cars?

A. I did.

Q. Now, Mr. Talbott, would you consider those costs for the floatage movement from St. George to Manhattan Pier, [fol. 1397] on a per-car or a per-ton basis?

A. That float movement in connection with these cars handled by the pier stations I included on a per-car basis.

Q. Yes, sir.

A. I think there may have been some misunderstanding about that yesterday but I did include mine on a per-car basis.

Q. Yes.

A. I doubt if that would make any difference to the actual results.

If we had the actual tons costs on those cars and reconverted it to a cost per ton. I do not think it would make any difference.

Q. We will see how that worked out. If placed on a ton basis in application to a particular car, you will agree that some variation between per-car costs and per-ton costs would affect the specific application to a specific car, would you not?

A. Oh, yes, there could be some difference. I doubt if it would be material.

Q. Well, I am satisfied that you appreciate that there would be a possibility of difference.

Now, Mr. Talbott, you were kind enough to furnish us with a map upon our inquiry down at Baltimore of your harbor facilities at New York. Do you have a copy of that map before you?

[fol. 1398] A. I do.

Mr. Colgren: Perhaps the Examiner would be interested in looking at this one.

I do not think I need it.

Exam. Boat: Thank you.

By Mr. Colgren:

Q. Mr. Talbott, referring to that map, could you describe the pier facilities—I do not want pier facilities, I want the relationships, if you will, for the record.

I have in mind, I think it is your car float bridges immediately to the north of your so-called lighterage yard.

A. Yes.

Exam. Boat: Is that designated "Float yard" on the map, Mr. Colgren?

Mr. Colgren: Yes.

By Mr. Colgren:

Q. Now, Mr. Talbott, that portion of your facilities immediately north of your so-called lighterage yard is your float bridge facility, is it not?

A. That section up there designated as "float yard" is north.

Q. I mean the pier facilities immediately north of your lighterage piers.

A. Yes, that is right.

Q. Could you give me an idea of the acreage involved in your pier facilities in that float yard?

[fol. 1399] A. I did not obtain acreage involved in that because, when you and Mr. French came down to see me, there was a question on the lighterage and I obtained additional data. The data I obtained at the time did not include the acreage and at the time you only questioned the lighterage yard.

Q. That is right.

A. Yes.

Q. Would you agree with me it is a lesser area than the lighterage yard?

A. Oh, yes, sir, it is a lesser area.

Q. The lighterage yard is in between your float bridge

yard, or your float yard, and the so-called classification yard—is that right—which is immediately to the south of the lighterage yard?

A. Well, your classification yard extends more to the west of your float yard.

Q. And that, too, is in a lesser area than the so-called lighterage yard. Is that not correct?

A. Well—

Q. Just an approximation from the map that is in front of you?

A. It is probably a little less acreage. I do not have here the acreage for the classification yard.

Q. You did inform us the lighterage yard covers an area of 77 acres, right?

[fol. 1400] A. That is correct.

Q. Now, Mr. Talbott, there are 1297 cars indicated as passing through the month of September, 1956—loaded cars, that is.

A. That is correct.

Q. Against which the taxes on that 77 acres were applied, right?

A. That is correct.

Q. Now, Mr. Talbott, there were some 11,956 cars shown as worked in your classification yard, in the period of one week. Right?

A. Yes, sir.

Q. And there were 15,331 cars passed through your float bridge yard in the period of September, 1956, right?

A. That is correct.

Q. Mr. Talbott, do you feel it is proper to apply the total taxes for that 77 acres against the 1297 loaded export and import cars which moved through the lighterage area?

A. Well, I do, Mr. Colgren, because that is the area which is set aside as being required for the lighterage operation.

In comparing the large number of cars going to the float yard you have to admit you have an entirely different operation. We do not hold cars in the float yard. We do not classify them there. You usually send them down there [fol. 1401] in a cut just about ready to put on a float, and you can handle a lot more cars through a float yard in a smaller area than in a classification yard or a hold yard for a lighterage pier.

And furthermore, I think even at the present time with the low business we have over 200 carloads of freight on the ground in this storage yard, in this lighterage yard. There is a large area there for ground storage.

Q. Were your revenues from the ground storage credited in your study?

A. They were.

Q. Now, Mr. Talbott, what is the car capacity of the tracks in your lighterage yard?

A. I have not checked that, Mr. Colgren.

Q. Do you store any cars in the so-called lighterage yard?

A. Just the cars that connect with the lighterage operation.

Q. I see.

A. We classify them and immediately move them over to the lighterage yard. There they are held.

Q. Your figure of 1297 loaded cars, which we mentioned a little while ago as passing through the lighterage yard and against which these total taxes for the 77 acres are assessed, if you allow for one hundred per cent empty return, that would still come down to about 80 cars per day, is that right?

[fol. 1402] A. 25 days—I do not know how many days you figure in the month?

Q. That is figured on a 30 day basis. What we did is double the 1297 and divide by 30, that works out to about 80 cars a day, 85—something like that.

A. It is possible.

Q. Now, 77 acres, Mr. Talbott, is quite a tremendous area to hold available for 85 cars a day. Will you agree with that?

A. Well, it would seem to be larger than necessary, at the present time, I will admit. But they have investment in the property and everybody knows about the high taxes in New Jersey.

It is a question of what you are going to do with the property.

Q. Well, I cannot very well quarrel with your view of it and perhaps you are stuck with it. But, do you not believe for element of cost ascertainment which is placed against specific cars for a specific operation, that a fairer method

of distribution of those taxes would be towards some portion of the yard which is actually dedicated to the use of the cars in question?

A. Well, I cannot agree because this place is all dedicated to the lighterage operation and that is it.

Q. Yes, but it is certainly not used for lighterage operation.

In other words, perhaps you have a dead horse there but [fol. 1403] should that all be imputed to an operation which does not require it.

Should it not more properly go in to a general overhead expense?

A. No, I do not agree with that logic, Mr. Colgren.

Q. Well, all right, sir.

Mr. Colgren: I believe that is all I have, Mr. Examiner, of Mr. Talbott. Thank you, Mr. Talbott.

Exam. Boat: I have a few questions here, Mr. Talbott.

You may have answered them already. One of them pertains to that same subject, I think you show this is costs for the lighterage yard on your work sheet No. 39, or are they numbered consecutively?

The Witness: I think I can find them.

Exam. Boat: The question is, interest, depreciation and taxes amount to .27 cents per car for classification and 24.61 for lighterage yard and an explanation of that is here desirable.

You have already testified to some extent on that, and I take it the interest and depreciation—

The Witness: The $18.99 you referred to includes both taxes and depreciation. Taxes were $17.81 per car.

I might say in connection with taxes, being that you raised the question, I have compared some assessments per acre with other railroad property of this lighterage area we are speaking of.

[fol. 1404] The New York Central's Weehawken yard is assessed at $2714 per acre.

The Central of New Jersey property is assessed at $3379 per acre.

The Pennsylvania Railroad, Greenville Yard property is assessed at $1598 per acre. Those comparisons alone would indicate the Central Railroad taxes per car would be higher than the other railroads, ordinarily.

Mr. Bongartz: What Central are you talking about?

The Witness: The New York Central.

They are probably different locates in Jersey City. Those assessments vary with the location but apparently Central railroad properties is in the highest assessed location, and that accounts probably for the high taxes per car.

By Mr. Colgren:

Q. Mr. Talbott, we are not quarreling with the fact of the taxes at all. It is merely the application that has been made of those tax items to this particular traffic we are concerned with.

A. Yes, I understand, Mr. Colgren.

Exam. Boat: Can you tell us how many cars passed through here, through the Jersey City lighterage yard in 1956.

The Witness: In the whole year?

Exam. Boat: Yes.

The Witness: I do not have those figures available.

[fol. 1405] Exam. Boat: Could you supply them?

The Witness: We could supply it.

Mr. Colgren: May we have a copy of that, please?

Exam. Boat: You can ascertain that?

The Witness: We can ascertain it.

Exam. Boat: Mr. Colgren would like a copy.

Mr. Colgren: Would you supply me with a copy?

The Witness: Yes, I think you should take it beyond 1956, because the traffic has fallen off since 1956 and we have a lower traffic picture today than we had in 1956.

Mr. Colgren: We would appreciate having it back as far as you care to go, Mr. Talbott.

Mr. Langdon: I cannot hear you, Mr. Colgren.

Mr. Colgren: I was remarking to Mr. Talbott that we would like to have the figures for the use of the lighterage yard by cars as far back as he cares to go.

He indicated that 1956 would probably be a period of lower traffic.

The Witness: I said lower since then, is what I said.

Mr. Colgren: Lower since then.

The Witness: Yes.

Exam. Boat: Page 38 showed 52,842 tons handled by

lighters, via Jersey City and page 39 shows 34,946 tons through the lighterage yard. Can you explain that difference in tonnage?

[fol. 1406] A. You referred to page 38.

Exam. Boat: Pages 38 and 39.

The Witness: Well, that is the tonnage actually received on marine movement, on page 38.

I will have to run these tonnages back.

Well, the major difference is the cement is included on page 38, and that is handled in a different yard, not in the lighterage yard.

It is handled at—it is not handled through the lighterage facilities.

23,000 tons of cement is the different.

Exam. Boat: That you would say is the principal explanation.

The Witness: Yes. It is handled over the lighterage piers, but not handled through these lighterage yards.

Exam. Boat: Is there any other traffic of that nature that would be included in the difference?

The Witness: No, that is the major item.

Exam. Boat: Now, on pages 39 and 40 which is included in the switching cost per engine-minute of 47 cents at Jersey City and 65 cents at St. George-Staten Island.

The Witness: Where is the 47 cents—page 39?

Exam Boat: Yes, I believe it is on 39. The sheet I have before me does not indicate.

The Witness: You are comparing the 47 with the 65 cents.

[fol. 1407] Exam. Boat: Yes, and the question is what is included in the switching costs.

The Witness: The same elements are included. Apparently they have a higher cost at St. George.

Exam. Boat: Perhaps, if you cannot give it right now, you could do so later in the day.

The Witness: It is in the working papers.

I was trying to look and see the reason for the increase. But we can work it out in detail and give it to you.

Exam. Boat: Perhaps you can explain it a little more later.

Now, on sheet 31, are the office and freight handling ex-

penses at Jersey City and St. George which are detailed on that sheet copied directly from the record of September, 1956, or are they apportioned, are the items a portion of the expenses that were allocated and if so, on what basis?

A. Well, the—we made a study of the operation in September, 1956 and we eliminated from the cost the cost of handling the cement which is handled on another pier anyway and no separation had been kept in the record, so for September we arrived at separate costs for handling the cement, which is all handled at another pier and we, also, based on an observation during the month, eliminated ten per cent from the clerical forces at Jersey City to cover [fol. 1408] this cement.

Now, it is a very simple commodity to handle through the lighterage pier, and we feel that we have made a proper allocation.

That is the only allocation that was made.

By Mr. Colgren:

Q. Could you describe for us how that cement is handled, Mr. Talbott, please?

A. It is mostly bulk cement, and while I have never seen them unload a car, I know the cost is much less than the other freight and I know that because it is a joint station, and the B & O and Central share the cost of the pier, the cost of the lighterage pier and the cement is of course all Central Railroad traffic. We had to eliminate that.

Q. Is that lighterage traffic?

A. Yes.

Q. And loaded in lighters. Then where does it go?

A. It goes in the Harbor somewhere, I think for export delivery. No, I think it is domestic delivery. No, I think it is export-import cement. It comes in bulk. It comes through a barge.

Mr. Colgren: Do you have any further questions?

Exam. Boat: Did you have anything in connection with that?

Mr. Colgren: I want to go back to those pages 38 and 39. [fol. 1409] Exam. Boat: I have a few more here.

On page 39, Mr. Talbott, there are 2008 shipments described as lighterage, trucks and l-c-l.

The question is, were these all import-export traffic?

The Witness: These were all the transactions handled by the lighterage bureau, it is my understanding they do not have anything to do with any traffic except import and export but if they do, the whole picture is here of all the transactions in that bureau.

Exam. Boat: How many cars would you say those shipments moved in?

The Witness: Which shipments are they?

Exam. Boat: It means 2008 shipments. Do your sheets show that?

The Witness: It showed 3,938 shipments for the Central Railroad, is that right?

Exam. Boat: The only figure I have is 2008.

Mr. Colgren: What page is that, please, Mr. Examiner?

Exam. Boat: Page 28.

Shipments described as lighters, trucks and less than carload.

The Witness: Lighters, trucks 3926 for the Central and 4,627 for the B & O.

Exam. Boat: I do not have the sheet before me. The figure was given me as 2008 shipments but you cannot iden- [fol. 1410] tify that.

The Witness: The purpose of that exhibit was to break down the lighterage Bureau cost between the various transactions they handle in the month and they handled some transactions through the pier stations and some from the lighterage—the lighterage pier.

What we have done there is assign the costs to the various elements of service. But we have included all the transactions, without weighting because I understand an l-c-l transaction takes a little bit of time to do that.

Exam. Boat: I believe that is all I have.

By Mr. Colgren:

Q. Mr. Talbott, referring back to your pages 38 and 39, we cannot reconcile the figures with the statement you made there.

How, actually was that reconciliation to be made between the figures pointed out by the Examiner?

The Witness: Now, what was the question?

Q. Well, the Examiner queries you as to the difference between—

Exam. Boat: 27 cents and 24.61.

Mr. Colgren: No, this is page 38.

Exam. Boat: On the tonnage.

The figures were 52884 and 34,946.

By Mr. Colgren:

Q. Yes, the 52,884 appears opposite "Via Jersey City."

[fol. 1411] A. Yes.

Q. And the 34,946 is on page 39.

A. What is your question?

Q. We have been attempting to make the reconciliation ourselves here and we cannot quite make it work out. Can you help us? You indicated, I think, that the difference would be accounted for by the bulk cement, but we do not see how that worked out.

A. I have used a total of 34,946 on this page 39.

Q. Yes.

A. That is made up of box cars, 23,538 tons.

Open top cars, 10,742 tons.

Refrigerator cars, 766 tons.

That makes the 34,946 tons shown on page 39.

Q. Yes, sir.

Now, what we were attempting to do is get some reconciliation of the figure 34,946 on page 39 and the figure 52,884 on page 38.

You have a footnote that apparently the 52,884 figure includes 23,705 tons of bulk cement the balance is some 29,179 tons, which does not gee up with the 34,946 figure on page 39.

A. That figure of 56,404, are the total tons which received a lighterage movement of all traffic receiving the lighterage movement.

[fol. 1412] That was used as a divisor, to arrive at the cost per ton for lightering traffic, which is shown on page 9.

Q. Yes, but I do not believe you have still reconciled for us the figures on pages 38 and 39, Mr. Talbott.

A. (No answer.)

Q. Mr. Talbott, I think we have discovered what happened on there.

Will you check me on this. Apparently the 23,705 is included in the figure 34,984, as indicated by your note?

A. Yes, that is correct.

Q. And it is also included, therefore, in the 52,884?

A. Yes.

I will look back at the basis for these figures and tell you in a minute. I will work it out.

The tonnages were developed for two different purposes, one, page 8, was to show the tonnages moving over the piers as a divisor into the pier operation cost.

Page 38 was developed to determine the total tons receiving a lighterage movement in the harbor.

I am sure we have a reconciliation in these papers here if you want me to take time to look for it.

Q. Well, I think we will be satisfied if you will furnish a reconciliation, there if you will?

A. Well, we will do that.

[fol. 1413] Exam. Boat: That will save time.

Mr. Colgren: Yes.

Now, Mr. Myskowski has further cross-examination of both witnesses Talbott and Heywood.

Mr. Bongartz: I did not hear you. Pardon me. Would you repeat what you said? I did not hear you.

Mr. Colgren: I said merely that Mr. Myskowski has further cross-examination of the witnesses Talbott and Heywood.

Cross examination.

By Mr. Myskowski:

Q. Were you in the room yesterday when Mr. Heywood said that trucking expenses should not be added to the totals when computing costs?

A. I do not think he said he should not. I think he said he did not.

Q. I thought he said it was an offset to account 101, is that correct? You disagree with him, then?

A. I do not see anything to disagree about. You have to do it one way or the other. To the extent he did not take into account expenses then he should reduce his revenue in exhibit 50 and widen his spread, that he is already showing on that.

Q. You did take into account in your figures on page 2 of your working papers?

A. Pardon?

Q. You show a trucking cost of 95 cents per ton, amounting to about 30,000 or 29,797?

[fol. 1414] A. That is correct.

Q. If that had been excluded as Mr. Heywood had done, your total cost would have been that much less?

A. Yes, but then I should have taken it off the revenue then and had the same answer, approximately.

Q. On page 38 you show the total for all of the cars which received lighterage service?

A. That is correct.

Q. I am not sure, but I thought the Examiner asked you about tons which were trucked in lieu of lighterage—is that right?

A. We talked about it.

Q. Could you tell me how many tons, in addition to these, received trucking in lieu of lighterage during the month of September?

A. Do you mean trucking from the lighterage pier all the way through, or trucking from the pier station now?

Q. Well, trucking in lieu of lighterage.

A. We had trucking from the pier stations in lieu of lighterage, of 239 tons of carload freight.

And we had 160 tons of forwarder traffic that came into the pier stations.

In addition to that, of course, we had traffic from the other stations. I will have to give you that.

Q. Is all of that export and import traffic?

A. That that I gave you was import and export traffic.

[fol. 1415] Q. And those are the tons which accounted for the total of $28,000?

A. No, they only accounted for the cost on the carload traffic going through the pier stations.

I am trying to find your tonnage on the others, the major item you are talking about, of $28,000.

I will have to look back in my work papers to get that.

I can give you the tons for all the trucking in lieu of lighter. Let me check that.

You see, we have had broken down on the front page in types of cars, and my original reckoning here does not break it down.

Let me check that number of cars and I will give it to you. Do you want that in tons?

Q. Yes.

These tons would be in addition to these which were lightered, is that right, sir?

A. Yes, sir.

Q. Do you know, sir, that Mr. Heywood did not include in his totals any tonnage which was included—which was trucked in lieu of lighterage—or if he did, can you show me where he did?

A. Did not include in his tonnage any—

Mr. Langdon: Are you cross-examining Mr. Talbott on what Mr. Heywood did?

[fol. 1416] Mr. Myskowski: Maybe you can help us with these procedures. You see, I understand Mr. Heywood said he would be responsible for what these men submitted to him and he does not know particularly the details of their own study.

Mr. Langdon: That is right, but I understand you were asking Mr. Talbott what Mr. Heywood did.

Mr. Myskowski: Yes, because, if he did not supply them to Mr. Heywood, I would assume Mr. Heywood had no way of picking up those tons. I do not care who you put the blame on, but it seems to me that something is lacking.

Mr. Langdon: Restate your question now.

Mr. Myskowski: All right.

By Mr. Myskowski:

Q. You told me there were, in addition to these tons which were lightered, a certain amount of tonnage which was trucked in lieu of lighterage?

A. Yes.

Q. I asked you whether you knew if Mr. Heywood, in picking up your tonnage, included any tonnage which was trucked in lieu of lighterage?

A. Well, he picked up in so far as the Baltimore & Ohio was concerned the tonnage which was trucked in lieu of lighterage. We gave him those figures.

Q. Where are they shown on the work papers?

A. On the recap sheet.

Q. Is that this one you have as page 1?

[fol. 1417] A. Yes, the 30,313 tons is a total of all box-car traffic for the month.

Q. As we tried to go through these work papers we were under the impression all of these could be tracked back to the tonnage which was lightered here. Were we wrong in that?

A. Well, you have two things. Even though the traffic was not lightered, we have all the expense in here, for all the various movements and we have the total tons affected, the export and import traffic for the month.

We brought the expenses all together to arrive at the total picture.

Q. Sir, there seems to be a difference of opinion about that, but let me ask you another question.

On page 37, you show carloads floated and you have a total of 8732 carloads which were floated during the month of September?

A. Yes.

Q. At the bottom you have a notation that 7 cars were floated in lieu of lighterage?

A. Yes.

Q. In addition to those seven cars were there any export carloads which were floated, export or import carloads which were floated?

A. The only export or import carloads floated during the week of the study were those 7 cars, and I have included [fol. 1418] them in my recap sheet under open top cars and the seven cars are on there.

Q. Sir, I want to go back to the question. You told me that your recap sheet, No. 1, your page 1, that the 30,313 cars include those which were trucked in lieu of lighterage.

Now, if you will turn to your page 8, you have import and export traffic handled on lighterage piers and there you add the box cars and the open cars and the tank cars which were lightered, and you come up with the total of 30,313, which I find on page 1.

Now, where are the ones which are trucks in lieu of lighterage?

A. The trunk in lieu of lighterage is still handled through the lighterage piers.

You take off a truck and put it in the box cars at the lighterage piers so the tonnage is in there.

Q. So what you meant to say was this tonnage which you show as being lightered included the tonnage which was also trucked. Is that right, sir?

Q. We have shown different tonnages for different purposes and the tonnages on page 1 are the total tons of import and export traffic handled, whether it received a lighter movement or were trucked to a lighter or floated.

It is all in there.

Q. That is what I am trying to get at, Mr. Talbott. You [fol. 1419] show 30,313 cars on page 8—

A. Tons.

Q. I am sorry—tons, on page 8 which received lighterage service.

A. At the lighterage pier. That is export and import traffic handled on lighterage piers.

Q. Is what you are trying to say some of those 30,313 tons also were trucked later on?

A. Some of those 30,313 tons were trucked into the lighterage piers to be put on a car and some of it was floated in.

Q. Could you tell me, Mr. Talbott, the total of import-export tonnage which the B & O handled during the year 1956, or during the representative year used by Mr. Mollman?

A I do not have those figures.

Q. Mr. Mollman gave us a figure of 2 million 3 hundred thousand tons and you do not have which proportion of that was B & O and C & J?

A. No, I do not.

Q. Could you get those, sir, or is there anybody in the room who has them?

Mr. Langdon: They will have to be computed. We may be able to get that.

By Mr. Myskowski:

Q. Mr. Mollman gave us a total of 2,300,000 some odd tons handled by your three railroads during the representative year.

[fol. 1420] Mr. Clark, when he testified, told us on page 5 of his statement that approximately 1,081,000 tons was the Pennsylvania Railroad.

Mr. Clark excluded ore again which amounted to say 125,000 tons.

Would it be safe for me to assume that the balance was handled by the B & O and C & J?

A. I could not make that assumption.

Q. There are no other railroads in the study, are, there?

A. No, but I think they ought to come from the source that came from. I never attempted it.

Q. Mr. Clark used one source for this and another source for supplying figures to Mr. Mollman.

Mr. Langdon: We did not supply any figures to Mr. Mollman.

Mr. Myskowski: Wherever Mr. Clark got his figure on the Pennsylvania Railroad I assume it was the same source.

The Witness: Mr. Clark is a traffic man and Mr. Mollman is an operating man. I imagine the figures came from two different sources.

By Mr. Myskowski:

Q. You mean we cannot rely on any of these figures?

A. Yes, you can rely on them. I think they are correct.

Q. If my assumption was correct and the balance was B & O and C & J approximately one million tons, and you [fol. 1421] show for these two roads in the month of September a total of about 42,000 tons, then you would agree that that was a very subnormal month or else some tonnage was missing, would you not, sir?

A. I do not know where the figures came from, but I do know, you do not handle as much traffic in New York Harbor, the Central and B & O do not handle as much as the Pennsylvania Railroad.

Q. If my assumption was correct, would the conclusion that I stated be presumably correct—that if Mr. Clark's figures and Mr. Mollman's figures are correct and they are the only sources we have.

Mr. Langdon: We have undertaken to get the figures you want. Can't these questions be deferred to that time, rather than ask the witness to answer the question on the basis of an assumption which apparently no one accepts, except maybe you.

Mr. Myskowski: I thought we were trying to get through here today.

Mr. Langdon: No we are not.

Exam. Boat: Perhaps after Mr. Mollman supplies the figures here we can get a satisfactory answer.

Mr. Langdon: Yes, we will get the figures.

Exam. Boat: We will take a ten-minute recess at this time.

(A brief recess was taken.)

[fol. 1422] Exam. Boat: Come to order.

By Mr. Myskowski:

Q. Would you turn to page 9 of your working papers, Mr. Talbott?

On that page of your working papers, as I understood them, the land operation—joint, and the tug operation is a joint affair between the B & O and the C & J, is that right, sir?

A. That is correct.

Q. And the rest of the expenses there are separate for each of the two carriers, is that right, sir?

A. That is the expense incurred by each of the carriers, but the floating operation is a joint operation in order to reduce expenses.

In other words, we may haul B & O cars on a Central float or they may use ours. We use them indiscriminately.

Q. Then these figures do not mean much breaking down on the cost as far as the B & O and C & J are concerned?

A. No, they do not. We merely put the costs together and they were the sources of expense.

Q. No. 3, you have floating and maintenance, C & J, your float and lighters. Is that the actual maintenance expense for the C & J tugs and floats and lighters?

A. Yes.

Q. Then they are actual?

A. They are actual for the totals and line for two actual costs for B & O tugs but the operation is a straight joint [fol. 1423] operation and the 46,000 tons lightered on the bottom line is Central Railroad and B & O Freight.

Q. On page 38 you gave us a breakdown showing of that total 11647 was B & O and 44,757 was C & J, was that correct, sir?

A. The 33,757 is through the Jersey City lighterage pier, which is also a joint operation.

Q. Well, sir—

A. Both B & O and Central Railroad freight pass through the Jersey City lighterage station but only B & O passes through the St. George. But the marine operation for both stations is pooled, is that clear?

Q. Not very. The B & O moved in lighterage service 3,555 tons and the C & J moved 44,357, is that right, sir, during the month of September?

A. Yes.

Q. And on page 9, the first two expenses are those which are applied jointly against all operations of both—against the marine operations of both carriers, is that right, sir?

A. All the expenses are applied jointly. We have added the Central Railroad expense and added up B & O expense and divided by total tons lighter. We have not attempted to separate discounts between the B & O and the Central of New Jersey. We have put them in one operation.

Q. There is no way you can allocate the cost, one against the other?

[fol. 1424] A. It would be a difficult job.

Q. We made the assumption, your last column on the right, lighterage, where you showed for example item 3, floating equipment maintenance of $3,608 for the tugs of

the C & J and 8,021 for floats and lighters of C & J, that that was the actual expense of the C & J's expenses handling this 44,347 tons. Were we wrong in that?

A. Yes, you were wrong in that.

Q. Is the equipment which the B & O has at New York interchangeable with the floating equipment which it has at Baltimore?

A. Well, we do not interchange it. We assign it.

Q. You keep it all at New York?

A. We assign it permanently to a location, yes.

Q. Mr. Clark, in his testimony at page 578 and 579 stated you have one hundred forty pieces of marine equipment at New York.

He stated that the C & J had a total of 42.

If I were to divide that 42 pieces of equipment for the C & J into the total tons handled which would be 44,000, they seem to be handling about 1,000 tons per month per piece of equipment?

A. Apparently the B & O equipment is not in there.

Q. The B & O equipment is 140 and if you divided that [fol. 1425] into what the B & O handles, you are handling less than 100 tons a month for each piece of equipment.

Now, sir, is there something about New York where you keep excess equipment, or that you keep them up there when they are not being used—laid up for repairs or something of that sort? Is the equipment about the same?

A. We do not keep excessive equipment anywhere. We scrap it about as fast as we do not need it. I do not know how you arrived at those figures.

Q. I did not arrive at any figures.

A. I am sure there is no surplus equipment at New York. Of course there might be today, with business off a bit right now. In fact I know we just built some new car floats on the Central of New Jersey. I know bad as they need money they would not have built them otherwise.

Q. You mentioned there were 23,505 tons of cement which moved over the lighter piers. Do you know, sir, whether that was import or export or was that domestic freight?

A. The bulk of it is domestic. There may be some import and export.

Q. In that 23,000?

A. If it was handled by the Central Railroad, it would all be in there because it was handled over another pier, separate and apart from these lighterage piers.

Q. As I understand it, this total of 56,404 is the sum of [fol. 1426] all of the tons which were lightered and from that I assume you were taking out the import and export tons.

Q. Do I understand you to say no, you do not know whether this cement was import or export, or domestic?

A. That 54,000 tons was used as a divisor into the total cost of lightering of all freight, all kinds of freight. The only assumption we are making there is that the cost of lightering the bulk cement is the same as the import and export traffic. It is all alike.

Q. Yes, sir—but I am worried about the tons. I will agree with you, sir, on the allocation of costs, but as I understand it, you were to supply to Mr. Heywood the tonnage which moved into import and export traffic?

A. Yes, we supplied them that figure and I read that into the record at the very beginning of my testimony.

Q. So you are saying now to the extent that there was any it was included that way but you do not know whether there was or was not any cement which was import or export, is that right, sir?

A. At this point I do not know whether there was this in the month of September but I do know we export some cement from time to time—a small quantity compared to domestic deliveries in the New York Harbor.

Q. How was this cement handled?

A. It is bulk cement. Personally I have never seen them [fol. 1427] unloaded.

I understand they are unloaded in an open scow of some kind.

Q. Was it in box cars or covered hoppers?

A. It is in covered hoppers.

Q. Is the cost of handling such a commodity lower than the cost of handling other commodities?

A. Very much lower.

Q. Do you think the cost of handling different commodities is different?

A. Naturally, that type of commodity, compared to the general run of commodities, would be different.

Q. Now, Mr. Talbott, your final conclusion is, I think on page 9, that the cost per ton of lightering freight at New York for the B & O and the C & J combined—and you do not have a breakdown for each road—is $3.67 per ton, is that right, sir?

A. That is correct.

Q. Do you have with you, sir, the other working papers which you made up for the terminal costs at Baltimore? Do you have those, sir?

A. I have some of them with me.

Q. I am looking for page 14, the typewritten page, and our page is I-15 for those.

A. At Baltimore?

Q. At Baltimore, yes.

[fol. 1428] A. You say page 14?

Q. Page 14 of your study, sir.

A. What does that deal with?

Q. That is lighterage, Baltimore Harbor, you have there, sir.

A. What is your question, sir? I do not have the statement.

Q. I do not have a question yet.

A. I do not have the statement if you let me have the question I may be able to answer it.

Q. I am referring to marine operation. At the top left it has Baltimore Harbor. It is typewritten page 14.

A. You apparently changed it—changed the order of these.

Lighterage, Baltimore Harbor.

Q. You have that, sir?

A. I think so.

Q. I asked you just a moment ago whether the cost for lightering a ton of freight at New York, the combined cost, B & O, C & J, was $3.67 a ton?

A. That is correct.

Q. Could you tell me from page 14 of your Baltimore study what the cost is for lightering a ton of freight at Baltimore?

A. It is $4.93 but only a small percentage of the traffic is lightered at Baltimore.

Q. I know that, but to the extent it is lightered it is more expensive to lighter freight at Baltimore than at New York?

[fol. 1429] A. That is correct, due principally to the smaller quantity.

Q. Well, B & O, I think from your studies, handled 7,000—well, 6700 tons in import-export traffic at New York and 3555 tons at Baltimore. Are those figures substantially correct?

A. You mean lightered?

Q. Yes.

A. 3500 tons were lightered at Baltimore, that is correct.

Mr. Myskowski: I have no further questions.

Exam. Boat: Do you have further questions of Mr. Heywood?

Mr. Myskowski: I have several of Mr. Heywood, yes.

Exam. Boat: Do you have any redirect?

Mr. Langdon: Mr. Examiner, we have been asked to supply and so has the Pennsylvania, a certain amount of information, in fact, quite a bit of information.

We think, in the interest of accuracy, and in the interest of developing the facts, that that information which we have been requested to supply should be supplied at a hearing at which the witness will be subject to cross-examination and so forth, and development of this information that has been requested.

We would suggest, sir, that the redirect of these two cross witnesses be deferred until that further hearing at which time they can come here and supply that information which has been requested and we will also have an opportunity [fol. 1430] during that interval, which I do not think probably should be more than 30 days, to assess the criticism that has been made.

We are anxious in this case, on this side of the case, to develop the facts and we think that a further hearing to supply this information that has been requested by the other side is in the interest of developing the facts.

This is a complicated subject and as I say, we think

that that further hearing would be in the interest of developing the facts on this complicated subject.

Mr. Colgren: Well, now, Mr. Examiner, that procedure does not jibe entirely with what we have had in mind with the progress of this case.

We have assumed that as a result of certain information, and so on which we have developed, I think, on cross-examination, and will develop through some of the additional data that we have asked to be supplied, be ready to proceed with rebuttal testimony within a period of about six weeks or so, and that has been the basis upon which we conducted our cross-examination.

Now, what Mr. Langdon is suggesting here is actually putting the procedure in a different posture than we have contemplated up until now.

Exam. Boat: Do you want this all in the record?

Mr. Colgren: I think so, yes, sir.

[fol. 1431] You see, Mr. Examiner, we are in this position, and I think it will bear repeating right now: Our original position in this case has been that costs are not the determining element in the Commission's consideration of whether or not the railroads, which have proposed the competitive rates at New York, feel it should be the basis for the Commission's determination as to the propriety of those rates. We are willing to recognize, to a certain extent, that for one reason or another—the fact that it was put in the posture of an investigation and a suspicion proceeding, rather than an investigation, on the Commission's motion—that perhaps we have some burden of establishing that our proposed rates will cover at least an out-of-pocket basis, or at least will be established to be compensatory on the average, and that is the method that we have followed in preparing for this cross-examination, for instance.

We have not gone exhaustively into additional facets of this cost study which would be required if we thought that it had the importance that the opposition is placing on it.

Now, we are prepared, on the basis of what we have developed today and the further additional information we will get, to proceed, and I think establish to everybody's satisfaction within the Commission and otherwise that our rate proposal is sound from a standpoint of compensativity.

What I am trying to say, actually, is that we are being, [fol. 1432] if you will, asked to accede to a request which places undue emphasis on the question of the port costs. And that is contrary to our theory of this case.

Exam. Boat: Well, Mr. Colgren, if the additional data which you have requested here were supplied in advance of the further hearing, such as the protestant railroads have suggested, would that be of assistance to you, in your conclusion?

Mr. Colgren: I do not rely wholly on the point of the suggested further hearing on the part of the opposition railroads. We are prepared on the basis of the information we now have and will get in the short future, I hope, to proceed with our rebuttal, and naturally that will be an occasion for cross-examination of our witnesses at that time.

I am saying, actually here, that we are content with the record as it stands and will stand when we get the additional information to proceed to hold up our burden of proof in this proceeding and we do not see any necessity for a further presentation on the part of the opposition.

Mr. Langdon: If you would come in with a cost study that would relieve me—

Mr. Colgren: Exactly what I am saying, Mr. Langdon, you are actually suggesting that we would in effect join you in a cost study.

Mr. Langdon: We would love to have you. We think that [fol. 1433] would be most appropriate in determining whether you sustained your burden or not.

It is true up to now in the course of this hearing there has been a certain amount of confusion about a few points in our cost study. We are interested in resolving the confusion and in developing so far as we can, the facts through a representative cost study. We think the best way to achieve that objective is to have this further hearing and we are perfectly willing to supply as soon as completed, the additional data in response to these requests that have been made.

Mr. Colgren: In effect, really, Mr. Examiner, what Mr. Langdon is saying is that they want to restate, I believe,

what they have presently offered before the Commission, is that right, Mr. Langdon?

Mr. Langdon: No, if there is any confusion, we want to resolve it and eliminate the confusion and it may obviate certain rebuttal on your part, I do not know.

But these things cannot be handled—these are complicated subjects and the cross-examination is difficult and we are anxious to see the Commission is supplied with the best facts available.

Mr. Colgren: I certainly join with you in that.

However, as I say, your theory of the case is contrary to our theory of the case, and that is actually where we [fol. 1434] are meeting head on here and in effect you are placing, we think, undue importance on this cost phase of it.

We are satisfied you have presented a cost study. We have through cross examination and will through rebuttal, establish that the cost study is lacking in certain respects. That is ordinary procedure. And what you are proposing, I think you will admit, is rather an unorthodox method here, and being so far against our position in this case, we do not feel it will accomplish anything in the end result.

Mr. Bongartz: Mr. Examiner, could I say a word?

I have been listening to this discussion and, as far as I can make out, Mr. Colgren's sole objection to the procedure suggested by Mr. Langdon is that somehow or other if you have one more hearing in addition to what rebuttal hearing he has on the subject of cost, that is going to prejudice his part of the case because he does not like costs and an additional hearing on costs, even to him, will put undue emphasis on the subject.

All we are suggesting and it is not unusual procedure, where you have during cross examination numbers of requests for additional material, that we have another hearing prior to Mr. Colgren's rebuttal presentation which would be subsequent to that, at which time this additional information can be produced and can be explained to the extent necessary, instead of having the information just given to [fol. 1435] Mr. Colgren and his people coming over with some rebuttal evidence which might have to be explained away in some way, shape or fashion.

I think here we are in a proceeding that has taken some time but we will make haste, as I see it, much better by this additional hearing than through the procedure Mr. Colgren has in mind, and as I say again, I can not see any objection that he has really made to Mr. Langdon's proposal except this idea that it puts too much emphasis on it.

I do not think that is a proper objection at all.

Mr. Colgren: Well, it is not really that at all, Mr. Bongartz.

Mr. Bongartz: That is what you are saying. I only heard what you said.

Mr. Colgren: No, that is your interpretation of what I said. Actually, my point is this: You propose a further hearing for what purpose other than to introduce or hand over to us certain information that we have requested.

Do you expect at that further hearing we will then be prepared to cross-examine on some thing on that basic information we have requested?

What will there be to cross-examine on? We want some factual material from you. That is all.

Mr. Bongartz: Mr. Langdon said you would be given the opportunity then to cross-examine to the extent you wish [fol. 1436] on the presentation of that additional factual material and then at the same time we would undertake to conclude the redirect of these witnesses and that would be that, and you would go on with your rebuttal then or later, if you see fit.

Mr. Colgren: I do not understand, Mr. Bongartz, there will be anything to cross examine on.

Mr. Bongartz: You are the judge of that, but our position is we think with all of this type of information that you have asked for that it should be put in through our own witnesses with proper explanation at that time.

Mr. Colgren: I have no objection.

Mr. Bongartz: I should think you would not want to object to that.

Mr. Colgren: I do not have any objection but I do not think it serves any purpose. The information we have requested is certainly factual data only, and if you care to supply any explanatory material along with the material

when you do give it to us, and a copy of it to the Examiner and the Commission, certainly there is no objection to that. I would anticipate that you would supply it to the Commission at the same time you did us anyway, for their information.

Now, what in the world could we cross-examine on?

Mr. Bongartz: Mr. Colgren, what in the world could you [fol. 1437] cross examine when you told us in the first place it would be only one half hour. We have been here a day and a half. When you ask what we would cross examine on, I do not know. You are the best judge of that.

Mr. Colgren: I think you are giving me a lot of words, Mr. Bongartz, without any appreciation of what I asked you. As I said, we want only some additional factual information.

Certainly we do not intend to quarrel with any facts that you give us.

Mr. Bongartz: Maybe there is a misunderstanding along these lines. As I understand Mr. Langdon's proposal, this further hearing would not only be of course to put in the further information, but at that time we would undertake to have our redirect examination of these two witnesses who have just been requested, and we think that in that way we can save quite a bit of time.

Exam. Boat: Well—

Mr. Colgren: If I may be heard just one moment on this.

I gathered from some of the remarks you made, that you anticipated perhaps reworking or presenting a new cost study.

Mr. Bongartz: That is not what—

Mr. Colgren: Is there any thought in mind of doing that?

Mr. Bongartz: I have no such thought in mind.

[fol. 1438] Mr. Langdon: We may in our redirect examination of these witnesses want to assess the effect of the adoption of some of these suggestions that have been made.

Whether that is a new cost study or not, I doubt. But there has been some confusion and some suggestions of different methods in certain respects and it may be during the course of the redirect, after we have had an opportunity to assess these suggestions that we will want to mention them, that is not exactly a new cost study, but it may

be an assessment of the value, if any, of the suggestions that have been made, in an effort to arrive at the facts.

Mr. Colgren: Well—

Exam. Boat: Could you supply the figures and perhaps introduce the redirect evidence in verified statement form? Can you do that—such evidence as you would have.

That would afford Mr. Colgren an opportunity to look it over before—

Mr. Langdon: We would be glad to supply him with copies in advance of any additional evidence of that kind.

Exam. Boat: You indicated that these figures should be supplements with some explanation or statement of the witness.

Mr. Langdon: Yes, we are in a handicap here, because while you see all these papers around here, there are still a lot of figures in Baltimore and Philadelphia and we simply are not in a position to do an intelligent job on redirect [fol. 1439] at this point, and what we want this further hearing for, in addition to supplying the further information which has been requested by Mr. Talbott and his associates, is to conduct a meaningful redirect that takes into account possibly certain criticism that had been made of our approach.

Exam. Boat: Well, are you in a position to do that at the present state of Mr. Colgren's cross-examination? I do not know that he is going to have much further cross-examination when he gets the information he has requested.

Mr. Colgren: I did not anticipate any further cross examination but under the proposal suggested, we will necessarily have to prepare further cross-examination.

Exam. Boat: You may wish to cross-examine further?

Mr. Colgren: Certainly, sir, if there is a revaluation in the light of what has been said yesterday and today.

Mr. Bongartz: If there will be—

Mr. Colgren: From my standpoint there will be so it will be a fact.

Really I think our opponents here are asking for bits of the apple again, and I am not particularly concerned about that, except from the standpoint of time.

Mr. Moerman: Mr. Colgren, are you willing to waive cross-examination if you receive the additional information you asked for?

[fol. 1440] Mr. Colgren: Yes.

Mr. Moerman: Mr. Langdon was at some pains to point out Mr. Talbott spent many months gathering this information and I think it is as careful a job as he could have done in those many months.

I think we ought not to have another hearing. I think there ought to be an end to this. I think the additional information ought to be submitted and I think we ought to go on to rebuttal in this case.

Exam. Boat: Well, that was the purpose I had in mind—to try to avoid any further hearing except for the purpose of rebuttal.

If you are privileged to submit a statement, any additional statement you wish, in support of the data that has been requested, or in explanation of them, would that meet your—

Mr. Colgren: Mr. Examiner, it would depend entirely on what we were faced with. If we merely get the additional information we requested, with any explanation of its content or makeup, why, certainly I did not contemplate any additional cross-examination.

If we get a re-worked cost study, that would, of course, be a horse of a different color.

Exam. Boat: Of course I understand the purpose is not to present a re-worked cost study.

[fol. 1441] Mr. Langdon: I think not, at this time, sir. As I said before there has been a certain amount of confusion with regard to elements in our cost study and we want an opportunity to reassess the situation in certain particulars, and we will be very glad to reduce it to the form of a verified or verified statements.

Exam. Boat: Supplementing the additional data which has been requested?

Mr. Langdon: Yes, sir.

Mr. Bongartz: Along the same lines there was a suggestion you made about our redirect being incorporated into a statement. Did I hear you correctly on that?

Exam. Boat: Well—

Mr. Bongartz: There are some parts of our redirect which can not of necessity be covered at the moment because it requires looking at papers which are not here in this city.

We have got to go back to some other records that we have in Philadelphia and Baltimore, and we just cannot cover it. That is all, there are some things that cannot be covered right now.

Mr. Colgren: Mr. Examiner, we have no objection I believe to a further hearing in a week or a week and a half, two weeks at the most, certainly, for them to evaluate the cross-examination and prepare their redirect on the date which is presently before us.

[fol. 1442] But what I am strenuously objecting to is a reworking of their affirmative evidence and circulation of that, which will require us to go through the same procedure we have just completed, after several difficult weeks, months, actually.

This thing can go on forever and ever.

As I say, we are perfectly agreeable if they want to postpone the redirect in the light of the cross-examination for a week or so, we can accede to that request.

Mr. Bongartz: All right. It seems to me we are in business then. It seems to me we are pretty close to agreement.

Mr. Colgren: All right.

That does not concede a reworking. Can we confine it to the record as made now?

Mr. Langdon: Plus this information—this further information you have requested and redirect examination to obviate, if we can, or remove the confusion that has we think been introduced into the record—necessarily so, perhaps, but nevertheless there is confusion.

Exam. Boat: Off the record now.

(Discussion off the record.)

Exam. Boat: On the record.

Mr. Colgren: I have discussed with co-counsel, and my people and we are prepared now to waive the request for any of the information that we have asked, except for the [fol. 1443] 1956 figures, and to offer to give a reasonable period which we think is a week for the preparation of the opposition's redirect examination.

I think, beyond that, we can agree on no other procedure.

In the interest of time, Mr. Examiner, you now understand that this could become an interminable merry-go-

round of additional data, additional data and additional time in each instance necessary for its evaluation on cross examination.

So I am willing to accede by waiving request for all information that we now have before these people except for the 1956 annual figures.

Mr. Bongartz: Which annual figures are you talking about?

Mr. Colgren: I think the record will disclose those. I am not sure that I have those all in mind now.

Mr. Langdon: That is a very important thing. We had better get it straight now. We will not have this record probably in time to help us dig it out.

Mr. Colgren: I will attempt to state for the record the information we feel is necessary to make adequate checks.

We would like to have the total number of cars used in the one-week yard study, September 25 to October 1, 1956.

Mr. Bongartz: Say that again, please?

Mr. Colgren: The total number of cars used in the one-week period September 25 to October 1, 1956.

[fol. 1444] Certainly you must have that information readily available.

Exam. Boat: Is that the total cars, export, import?

Mr. Colgren: All cars?

Exam. Boat: All cars studied?

Mr. Colgren: Yes.

Mr. Bongartz: All cars used. All cars used to produce the study results?

Exam. Boat: Yes.

Mr. Colgren: That is right.

We would like the 1956 figures for the cars moving through the Harsimus Cove float bridge, divided into export-import, and all other.

And, if you recall, Mr. Examiner, we asked for certain car float information which could be gotten either directly from or in the records making up the budget bureau report No. 47. I think it was—4269.7—a report furnished to the Department of the Army, Corps of Engineers.

And the only monthly figure we want out of that annual report is the month of September, 1956.

Exam. Boat: And that is the only figure we want.

Mr. Colgren: No, we want the annual figures, also.

Exam. Boat: You want the annual figures and the figures for the month of September.

Mr. Colgren: That is right.

[fol. 1445] Mr. Bongartz: When you say "figure," do you mean what you say there, Mr. Colgren—you say "figure." What figure? As I recall it, when you referred to that report there were a number of figures you wanted. If there is a figure for September and a figure for the year, would you tell me what figure it is for each of those periods?

Mr. Colgren: We would like to have the information that is on the report.

Mr. Bongartz: You mean, if there is such a report you want the whole report?

Mr. Colgren: Well, it need not be the report, itself. If you want to abstract the information from it and give it to us.

Mr. Bongartz: What information? If you want a figure, what is that term?

Exam. Boat: I think I used that term.

Mr. Colgren: Actually, the record covered the movements of each car float, the contents and the points between which it moved. It is submitted on an annual basis, as I understand it, and we have asked for the information on that report and the same information for the month of September.

Is that clear, Mr. Bongartz?

Mr. Bongartz: The movements of each car float and the contents. Is that it?

Mr. Colgren: I think it is just number of cars. It is a vessel operation report.

[fol. 1446] Mr. Bongartz: I assume, if we find such a report, and determine to furnish it to you, that you will also give us your report and the reports of the other New York harbor lines.

Mr. Colgren: I think that is rather an unusual request—

Mr. Bongartz: I can not understand that statement, Mr. Examiner.

Mr. Colgren: Well, when the laughter calms down—

Mr. Bongartz: That is good for one is good for the other.

Mr. Colgren: When the laughter calms down and we get back to some sobriety, I would point out we want that information to check a particular cost study presented to these people and I can not conceive why they would want the similar information from the remaining railroads.

And there is one additional figure which we would like to have you give us, again for test purposes only, and that is the annual tonnage of export and import traffic for 1956, via the B & O and C & J.

The Witness: That is for the year 1956, New York, I suppose.

Mr. Colgren: That is right, New York.

Exam. Boat: Do you wish that separately for the two railroads?

Mr. Colgren: Not necessarily—well, it would perhaps facilitate it. I have forgotten what the comparison is we wanted to make with it.

[fol. 1447] Yes, I think it should be stated separately for the C & J and the B & O.

I might point out to the Examiner some of these requests I had made were incorporated in my letter of February 20, 1958, to Mr. Heywood.

Exam. Boat: Well, it is understood that that information will be furnished, if possible.

Mr. Langdon: So far as it is available, sir.

Mr. Bongartz: So far as it is available. I have some question with regard to this so-called budget bureau report. The people at this hearing are not familiar with such a report. They have to find out whether there is such a report.

I still have a question in my mind. I do not know the information shown there, and its relevancy to this case. Obviously from what Mr. Colgren has said in describing the report, the report accumulates all of the data given and gets it into one document.

I do not know whether there is a part of a fishing expedition on the part of these other New York harbor lines to find out what business we have up there.

Exam. Boat: I understood the data are supplied by the individual railroads which go to make up this report, is that your understanding?

Mr. Colgren: No, sir. I am just asking for it.

Mr. Bongartz: And we asked for him to give us the same [fol. 1448] or similar information for his own road.

Exam. Boat: Then, off the record—

Mr. Colgren: I might say there is no disclosure on this report as I understand it of content of cars or anything else. It is merely a statement of the number of cars moving between specific points to the Harbor of New York.

If that is considered to be confidential—

Mr. Bongartz: It seemed to be a mystery document. I asked you before if you had a copy of it and you said you did not.

Mr. Colgren: No, I did not. As a matter of fact, it is a mystery document I stumbled across somewhat by accident. But we furnish it to the Corps of Engineers, certainly, and each railroad in New York Harbor does similarly.

And if you recall, I suggested it was probably filed by what might be called your lighterage agent.

Mr. Bongartz: I have notes on it, Mr. Colgren. I will have to check on it.

Exam. Boat: Then it is contemplated that such of this material as can be produced will be available at a hearing a week or so hence.

Is that the thought?

Mr. Colgren: I would appreciate it very much.

Exam. Boat: Off the record.

(Discussion was off the record.)

[fol. 1449] Mr. Bongartz: May we go on the record a moment?

You were talking a moment ago, Mr. Examiner, about the date for—

Exam. Boat: Presenting this additional evidence here which has been requested.

Mr. Bongartz: Of course, the other part of the thing was the redirect.

Exam. Boat: The redirect—that is right.

Mr. Bongartz: —of the witnesses.

I was just talking to our people and the time you suggested around the 8th, is a date and time when they are

engaged in other hearings. We would suggest the beginning of the following week.

Exam. Boat: That is impossible.

Mr. Welsh: That is impossible, both the Examiner and I have conflicting engagements.

Exam. Boat: I will be in Duluth this week.

Mr. Bongartz: The week after that.

Mr. Colgren: May we move it up a little bit, if we are running that way. Can we make it the 4th of April, which is a Friday, but it would in fact give our opposition a week, approximately?

Mr. Welsh: That is Good Friday, Mr. Examiner.

Mr. Colgren: The only objection I have heard against the 4th of April is that it is Good Friday. But that is not [fol. 1450] a railroad holiday, Mr. Examiner, so I see no objection to starting on it.

Exam. Boat: I see no need for starting on a Friday, unless we can't avoid it.

Mr. Colgren: I would be willing to start on the first, but that is not giving these people the time they asked for. I was trying to give them a week.

Mr. Welsh: I have a hearing in New York on the first.

Exam. Boat: Do you think we can wind it up in two days?

Mr. Bongartz: Mr. Heywood said he cannot be here the 11th. How about the 9th and 10th?

Mr. Colgren: The 9th is bad for me.

Exam. Boat: Off the record.

(Discussion off the record.)

Exam. Boat: On the record.

Mr. Langdon: Mr. Talbott is excused, is he?

Mr. Myskowski: Yes.

Exam. Boat: Are you finished with Mr. Talbott now?

Mr. Colgren: Yes.

Exam. Boat: And you will not want him at a later hearing, either?

Mr. Colgren: No.

Exam. Boat: You may be excused, Mr. Talbott.

(Witness excused.)

[fol. 1451] Examiner Boat: We will recess now until 1:45 this afternoon.

(At 12:15 p.m. the hearing was recessed until 1:45 o'clock p.m.)

[fol. 1452] AFTERNOON SESSION

1:45 p.m.

J. L. HEYWOOD was recalled and testified further as follows:

Further cross examination.

Exam. Boat: Come to order, gentlemen. Proceed, Mr. Myskowski?

By Mr. Myskowski:

Q. In your statement, you state at page 2 "Supervised and participated in the preparation of the exhibits which I desire to submit at this time."

Did you supervise or participate in the preparation of the underlying working paper by the railroads?

A. Only our own railroads, sir.

Q. When they gave you the finished products you just took the result of the finished products and did not check them for accuracy or anything?

A. No, they were supposed to be in the same form we agreed to and we took them and representatives of the other railroads came in with my people and we sat down and put them together.

Q. If one on the first page showed you some cost for something, you did not bother to look further on to see if there were any other costs that were not included on the first page, for example?

A. No, I did not do any checking. That was up to the [fol. 1453] other railroads.

Q. Did you get up any procedures to be followed, the allocations or anything of that sort, whether they should take in computing the expenses the actual expenses for the

month or the average for several years or anything of that sort?

A. No. We discussed it to the extent we would base our study of the switching in September, as near September as possible, and that, naturally we agreed—I think we all agreed that the maintenance should be at least three years, and things like that.

That we would work that way.

Q. Now, Mr. Heywood, based upon your experience to what extent do you say that the cost for handling the same commodity would differ as between railroads and different stations on the same railroads?

Would it be ten per cent or 50 or 100?

A. I have no idea, sir.

Q. You have no idea?

A. The only difference I can look at is possibly the commodity, how it is to be delivered, and what is necessary to do to handle it, as compared with the class, possibly, of car that it is, and that sort of thing.

Q. Would different commodities require difference in service, would they require different service for handling? [fol. 1454] A. Some of them would no doubt. I say, somewhat. But not for handling through the yard. A car is a car but when you get into moving it from the car into lighter that certainly—if some things are in a small package, rather than a larger, there is a lot of difference in handling that situation.

Q. You have a summary sheet that looks like "Revised Terminal Studies," and I want to get a short summary of what you did here in my mind. What you did was take the actual traffic moving through the Port of New York for the month of September and you broke those costs down by box cars, general cargo, open cars, box cars, grain and reefer cars, is that right?

A. That is the class of or on which this traffic moved from the traffic study which had been made.

Q. That was your breakdown, those—

A. Yes.

Q. You did the same thing for Philadelphia and Baltimore?

A. We are talking about the Pennsylvania Railroad, now are we, or are you talking about all the railroads?

Q. Your summary sheet here I think is for all of them. You took the results of their study.

A. Yes.

Q. And to the extent they are accurate—you are certainly not vouching for them—

A. I do not know whether you were talking about the [fol. 1455] summary of all the railroads, or the Penn.

Q. You took what they were supposed to have done?

A. That is right.

Q. And put them together?

A. That is right.

Q. To the extent that you have in your conclusions for Baltimore and New York for box cars it costs $21 per car—this is for Baltimore, plus $3.26 per ton, times the average load, is that right, sir?

A. Are you speaking of the average terminal now?

Q. Yes.

A. That is from Form A, average terminal, yes.

I do not know what sheet you have there.

Q. It is not the form A.

A. Let me see this.

Q. I guess that is your special study.

Is that right, sir, $21?

A. $21.14.

Q. Plus—

A. Plus 26 cents per ton.

Q. For New York for box cars it was $34.96 per car.

A. Yes.

Q. Plus $9.13 per car?

A. Yes, sir.

Q. You use the same Form A cars for the inland origin [fol. 1456] or destination, did you not, sir?

A. We used the Form A, the result of the Form A application for inland terminals.

Q. So there was no difference for that cost in Baltimore or New York?

A. That was average for the whole eastern district.

Q. The line haul costs as you developed them were strictly Form A, were they not, sir?

A. Yes, sir.

Q. And New York is about what—100 miles farther than Baltimore?

I think you show it in one of your studies here—113 miles, something like that, from say, Chicago?

A. From Chicago? Let me see.

Q. You have 880 miles on your exhibit.

A. 890 miles.

Q. For New York.

And about, from Chicago—

A. Chicago, 880 miles from Chicago to New York.

Q. 880 miles.

And from Chicago to Baltimore is about 767 miles.

I refer you to page 7 of your exhibit JCH-1.

A. Chicago to what?

Q. Baltimore.

A. You said page 7?

[fol. 1457] Q. Page 7, there in the middle of the page, they have Chicago.

A. Wait a minute. I am too far down. I was looking at 6. I was back into Chicago to New York again.

Q. I see. I am sorry.

A. Yes. 767 miles. Is that what you said?

Q. Yes, sir.

Now, could you roughly give me—what would be the difference in cost in the line haul costs, form A line-haul costs, for the additional one hundred miles? Would it be something like one dollar a ton—something of that sort?

A. Well, the difference is—

Q. Let us look at those two.

A. Roughly in total, the difference is—I am sorry. I am on the wrong one here.

Q. Let us take woodpulp or some other commodity you can readily grasp. That one says the line-haul cost—no, I guess it is "manufactured iron and steel," the one above, to Chicago are 371.03.

That is page 3.

A. Which one are you on?

Q. Page 3, JHL-1.

A. This is Chicago to New York.

Q. Yes.

A. What was that again?

[fol. 1458] Q. From Chicago to New York the line-haul costs are $371.03?

A. I am sorry. Which commodity are you working on now?

Q. Manufactured iron and steel.

A. I have it.

Q. 371. If you turn to page 7, it is 323.

A. Page 7, now.

Q. Yes.

A. Iron and steel—Chicago—323.

Q. Yes, sir.

A. In a box car?

Q. Yes.

A. All right.

Q. So the difference between those two would be about $48 for 40 tons or a little over a dollar a ton, would you say?

A. That is what these figures show, yes.

Q. So that your inland origin to destination costs are the same and your form A line haul costs would be about $1 higher to New York than to Baltimore and you show, in this summary sheet, that for box cars it is $9-and something a ton as against $3.26 a ton at Baltimore.

Exam. Boat: That is the summary sheet—

By Mr. Myskowski:

Q. That is a fully-distributed cost basis—the $9 are fully distributed?

A. Yes.

[fol. 1459] Q. I am looking at the summary sheet?

A. JL-1 revised and this is from that, as I understand it, is fully distributed cost.

Q. If you knock it down out of pocket, just roughly 20 per cent, that would knock it down roughly something like a quarter from New York?

A. Just a minute. I am not making these computations, and I am not going to say yes to hardly anything on that, because I want to know what I am saying yes to.

Q. All I want to know, how much more per ton does it cost to carry traffic through New York than through Baltimore? I was trying to get it from—no difference in the inland origin to destination, according to your port studies. For box cars you have 931 against 336, for fully distributed

and figured something like 7.25 as against 250 for out of pocket.

Say $5 roughly. Would that be a fair assumption?

A. Well, I do not think I can say that that is just that easy.

Q. Well, what would you say it is?

A. I do not know what it is. I have not got it here.

Q. Isn't that what your cost study purports to show?

A. It shows 931 but that does not say it has gone to $5, the difference.

Q. In taking out of pocket cost did you take roughly 80 per cent?

[fol. 1460] A. I took it on certain expense accounts. Not on certain other things.

Q. On these terminal costs what per cent did you take?

A. 80 per cent.

Q. If you take 80 per cent of 913, I would say it was roughly 7¼ or a half.

A. I would go along with that.

Q. If you take 80 per cent of $3.26, it might be something like 2½ or 275.

A. All right.

Q. So, roughly the cost would be $5.?

A. On these two figures you have quoted, yes, the difference is $5.

Q. The difference would be $5.

A. Yes.

Q. If you throw in a dollar five for the line haul additional costs you would say on box cars roughly six dollars would be the difference in total cost between New York and Baltimore, is that right, sir?

A. What is this six dollars now?

Q. Six dollars would be the difference on out-of-pocket cost on box cars, New York as against Baltimore?

A. You mean for one mile?

Q. No, I mean per ton.

A. Well, the way you are asking—well, that is one mile.

[fol. 1461] Q. Well, let us go back.

A. One ton, if you want to call it.

Q. That is what I am trying to get.

A. But that does not mean the whole distance from Chicago to New York.

Q. I am saying just the difference?

A. The difference in what.

Q. The difference between the cost at Baltimore and the cost between New York, per ton?

A. Terminal, I agree with you, but I do not agree with you when you say it is one dollar line haul.

Q. Didn't we just figure it out?

A. It is one dollar per—

Q. Ton.

A. Per tonmile or carmile.

Q. I thought we had it per ton, that Chicago was 800 miles and we had—880 miles from New York and we had a figure of 371 dollars. Chicago to Baltimore was 767 miles and we had a difference of—well, the figure there was $323, so that we had a difference of $48 for the total line haul costs on a car which had 40 tons. So would not you say that the line-haul cost differs per ton, New York as against Baltimore, that the difference was $1 and 25 cents, something like that?

A. Per ton?

[fol. 1462] Q. Yes.

A. All-right, per ton, yes.

Q. If we did the same thing for open car, we show at New York $8.61, sir, as against one dollar a ton at Baltimore.

If you knock down to be, say, something under $7 for New York and just under a dollar per Baltimore, that is per ton, is it not, sir—an out-of-pocket basis?

A. Wait a minute.

Q. Yes.

A. The Baltimore was one dollar.

Q. Yes, sir.

A. And New York is $8.61, so that is $7.60.

Q. Take 20 per cent.

A. You are talking of out-of-pocket.

Q. Yes.

A. I will go along with that.

Q. There is six dollars difference there—

Exam. Boat: Mr. Myskowski, a little slower here, I think our reporter is having a little difficulty.

By Mr. Myskowski:

Q. Then your summary shows for open cars the out-of-pocket terminal costs at New York would be approximately $6 a ton higher than for Baltimore, and if we were to add to that another dollar for line haul you would say as to open cars the out-of-pocket cost at New York would be $7 or so, higher than at Baltimore.

[fol. 1463] I am just trying to get some rough approximations.

A. All right.

They are rough.

If your mathematics are correct, I will agree with what you say the figure is.

Q. All right, sir.

So that over-all the New York costs on out-of-pocket basis are six or seven dollars a ton higher, according to your studies than the Baltimore costs, right?

A. Yes, sir.

Q. That is right?

A. Yes.

Q. Now, at the time you made your JLH-1 and JLH-2, I think you computed costs for all three ports, Baltimore, Philadelphia and New York, right?

A. Do you mean the special terminal costs?

Q. Yes.

No, JLH-1 and 2 show costs for all three ports, do they not?

A. Yes.

Q. At the time you made that study, did you come to the conclusion the traffic moving through Baltimore was compensatory—did it meet, in your opinion, out-of-pocket costs?

A. I did not make out-of-pocket for Baltimore.

Q. Did it meet fully distributed costs?

[fol. 1464] A. In most every case, I think it did.

My exhibit speaks for itself.

Q. I am just trying to get a broad conclusion, sir. I do not want to go into all these details now.

Would you say, except for a couple of commodities which may be below fully-distributed costs, the over-all at Baltimore meets the fully distributed costs, the over-all at that point? That is, the revenue?

A. That is what I say, in most every case it did.

There are some exceptions.

Q. If the traffic actually moving through New York—not some theoretical traffic—if the actual traffic moving through New York brings revenues more than six or seven dollars a ton higher than the traffic moving through Baltimore, would you not concede that the traffic moving through New York was compensatory?

A. No, sir.

Q. Why not?

A. My exhibit says it is not, and that is where I stand.

Q. Why not, sir?

A. I said I was only agreeable to your mathematics. I am not agreeing with your theory.

Q. As I understand it here, you have taken the average cost of moving traffic through New York and the average cost of moving traffic through Baltimore, is that right?

[fol. 1465] A. Yes, that is what my exhibit shows.

Q. And you have compared that, not with the average revenues through New York or the average revenues through Baltimore, but with revenues from specific commodities, is that right, sir?

A. That is correct.

Q. If you have, and I would like to give you a copy of Mr. Mollman's exhibit MLM-3 on the first six pages of Mr. Mollman's exhibit MLM-3, pages 1 to 6—this is the one I am looking for, the one which shows the complete breakdown of import and export traffic through New York and through Baltimore, at pages 1 to 6, Mr. Mollman lists all of the commodities.

Now, sir, if we take the commodities which actually move through New York and look at your exhibits, JLH-5 and 6, and apply the revenues which would result from the computations there shown and if we actually took the traffic moving through Baltimore and did the same thing and if your costs are six or seven dollars higher at New York than at Baltimore, but the revenues are more than six or seven

dollars higher, would you not concede that the traffic at New York is compensatory?

A. No, sir.

Q. Why not?

A. I will stand with the exhibit that I put in.

Q. All right, sir, would you look at your JLH-5?

A. My "5"?

[fol. 1466] Q. Yes, sir.

A. Yes, sir.

Q. On page 2 thereof you show the revenues, and these as I understand them are the Baltimore revenues, on ores and concentrates, n.o.s. and there you show revenues of $5 and 71 cents a ton to $6.40 a ton, is that right, sir?

A. Yes, sir.

Q. Right before that you show zinc ores and concentrates with revenues $5.06 a ton, right?

A. Yes, sir.

Q. Mr. Mollman's exhibit shows out of a sum total of 1,644,844 tons of import traffic moving through Baltimore, a total of 1,283,888 tons was group 319 ores and concentrates NOS.

And another 66,058 tons was zinc ores and concentrates.

Roughly that is over 80 per cent of the total.

Even if the other commodities were much more remunerative, the average revenues on import traffic through Baltimore would not be much more than six or eight dollars a ton. That is pretty obvious, is it not?

A. I do not know what it would be.

Q. Are the rates wrong, sir?

A. I did not say they were.

Q. Are you now quarreling with Mr. Mollman's figures?

A. I am not quarreling with anyone's figures. I have only these figures here and I do not know whether the six [fol. 1467] dollars is the average or high or low or what it is.

Q. We are trying to draw a few conclusions, because the figures are just a hodgepodge, you see, if you do not attempt to draw an analysis of them.

A. That is your conclusion, whether they are a hodgepodge or not.

Q. I see. Let us look at the traffic moving through New York.

A. Yes.

Q. Mr. Mollman's imports 645,792 tons. The greatest single commodity is, according to Mr. Mollman's study, group 523, rubber, crude, natural and synthetic, 164,953 tons.

Now, sir, on your exhibit JLH-5 at page 4, could you tell me what the revenues are from rubber?

A. Page 5.

Q. Page 4—it is your exhibit JLH-5 but page 4, I think.

A. Are you speaking of rubber, crude?

Q. Yes, 88 cents to $1.11 per hundred pounds.

A. That is right.

Q. That would be $17.60 to $22.22 a ton, is that right?

A. That is about right.

Q. That is a good bit more than seven or eight dollars a ton, isn't it?

A. Yes.

Q. Let us look at the next largest one—coffee, group [fol. 1468] No. 75, coffee—

Exam. Boat: Which page—

Mr. Myskowski: Page 1 of MLM-3, sir.

That shows 133,265 tons of coffee moving through New York during the representative year.

At page 1 of your exhibit JLH-5, could you tell me the revenues, sir?

The Witness: The rates, do you mean?

By Mr. Myskowski:

Q. The rates, yes.

A. Well, they run from 64 cents to 90 cents.

Q. That is $12.80 to $18 per ton. Again that is substantially more than $8 a ton?

A. Yes, it is more.

Q. Take the third one. That is group 51, bananas, that is on page 1 of MLM-3.

A. I would like to call your attention while we are looking at coffee, I go back to my statement again and in the last column I show the ratio of even the out-of-pocket costs to revenue is $103.80 as high as $118.1.

Q. How about rubber? Let us see? What page is that on—rubber—four, I guess.

Q. Yes, rubber.

A. Rubber runs from 80.1 to 87.1.

Q. Let us take the third largest, group 51, bananas—53,946 tons.

[fol. 1469] At page 1 of your JLH-5, you show revenues of $1.29 to $1.60 per hundred pounds.

A. That is right.

Q. Or $25.80 to $32.00 per ton, is that right, sir, approximately?

A. That is your multiplication, I will accept your multiplication.

Q. Again that is substantially above six or eight dollars a ton?

A. The figure you quoted is greater than $6.

Q. Those three commodities are a majority of the total moving through New York, Mr. Heyward, and the ores and concentrates amount to 80 per cent of the imports moving through Baltimore, so what your study has done, sir, is taken the cost of moving rubber, coffee, bananas through New York and applied those costs to all sorts of revenues, even though those revenues, or rather, even though the commodities do not move in any substantial volume to New York, is that right, sir?

A. Which commodities, now?

Q. Well—

A. The ones you mentioned?

Q. Well, let us look at—

A. Personally it does not make any difference to me whether they move through New York or not in one sense. This exhibit is to portray the Baltimore rates and if this [fol. 1470] traffic did move through New York, this is what happens. That is what this exhibit shows.

Q. All right, sir, let us let it go at that.

Do you mean to tell us that, if—let us look at 319—ores and concentrates. Baltimore had on that one million, 1,283,888 tons.

New York had 26,369 tons.

Now, sir, in your JLH-5, you show that the cost of moving such ore through New York would be 781 a car. Now you do not mean that seriously, do you?

A. That is what I said, yes, what do you think I am doing, sitting here under oath lying about the figures.

Q. What you have done is applied an average which is clearly inappropriate.

A. I do not think you can get any closer cost than that average or no average as you call it.

Q. How does this manganese chrome move through Baltimore?

A. Mostly in bags or car tons.

Q. At Baltimore?

A. At Baltimore.

Q. I am talking about Baltimore.

A. That is bulk.

Q. Does it move in fairly substantial volume?

A. I do not know, sir. I do not know what the traffic study shows. You know from that as much as I know about it.

[fol. 1471] Q. I hope you know a little more, because I do not know too much about it.

A. The traffic man is the man that can tell you more about that.

Q. Do you think this chrome ore, manganese ore moved in a fashion similar to iron ore?

A. Out of Baltimore.

Q. Out of Baltimore. All right, sir.

A. If that is where you are speaking.

Q. All right.

Do you recall your testimony and evidence in I & S 6074?

A. Sixty what?

Q. The iron-ore case.

If I am correct in my memory, you at that time made a special study at New York and said it would cost about $3.25 to move iron ore through New York and the Commission found it was way too high and knocked it down to $2.60 or something like that.

Now you are trying to tell us according to this exhibit, it was about $16 a ton.

A. You may not agree and I may not agree with the Commission.

You say I agree.

Q. Let us assume it is $3.25 a ton. That is still much less than the revenues here.

[fol. 1472] A. If it was.

Q. Is it not true cost is not something which just comes out of the air? They are made of specific commodities and if we moved a million three hundred thousand tons of ore through New York our costs would be what they are in Baltimore and if they moved our rubber and coffee, their costs would be what they are in New York? Isn't that obvious?

A. No, not to me.

Q. Is it your impression all commodities have the same cost, so far as you know?

A. No, I did not say that exactly. There is a difference in handling and loading and that is one of the big items in New York, the loading or unloading.

Q. Yes. We have rubber which costs six or seven dollars or more a ton but takes eight or ten more in revenue.

A. I did not say it costs more.

Q. I used your figures.

A. You can use figures and do a lot of things with them. So can I. But it does not agree with your five or six dollars.

Q. This is ample demonstration of that.

A. That is what you think.

Q. Would not you concede that it costs different amounts to handle different commodities?

A. I have already said that.

Q. So, if the commodities at New York cost more but [fol. 1473] also brought in much more revenues, they would be more compensatory than those at Baltimore, isn't that obvious? Whatever the figures happened to be, isn't that true?

A. In your language, yes.

Q. Again, didn't you make a specific study here, Mr. Heywood?

A. What do you mean by "specific study?"

Q. You studied the commodities actually moving?

A. The traffic people studied the commodities moving—that is right.

Q. Did you look to any extent at all on the work papers of the Canton Railroad, sir?

A. No. Each railroad will speak for itself.

Q. In your summary of the costs at Baltimore—you do not have these figures up in the corner, this one is entitled "I & S No. 6615, Terminal Studies, Baltimore Maryland." This is your paper, is it not?

A. This is part of our papers—yes. We made these summaries.

Q. The second one down says "Canton, 13,268 tons, unit expense 51.47." Where did you get that unit expense?

A. That is what they gave us.

Q. Is this the paper that you copied from, this work paper?

A. Yes.

Q. You must have looked at them to get that $1.47?

A. I did not mean look at them in that sense. When you [fol. 1474] said "look at them," I thought you meant "did you analyze them"?

Q. You made it clear you did not.

Can you give us these for a moment?

A. Surely.

Q. You notice there you have a great variety of cost for different commodities, do you not, sir, sugars—I do not know what it is there. You will see there is sugar cost, that the sugar costs them $5.67 a ton and varies down to cork, costing 96 cents a ton, is that right?

A. Yes, that is the figures.

Q. But the over-all average cost per ton that you picked up is $1.47, is that right, sir?

A. That is right.

Q. If you notice, sir, under "sugar" or a few other places, they say truck revenues.

A. Yes.

Q. I assume what they did is offset revenues which they got from trucks against the costs of the rail traffic, is that right, sir?

A. I do not know what they did.

Q. Well, I do not, either.

Would you look at page 4—page F-4. Could you tell me any reason why you did not pick up those costs?

A. (No response.)

Q. They show, sir, about $1.80 of additional costs at [fol. 1475] Canton were allocable to platform tonnage, and you used the figure on the first page, $1.47, you just did not bother to go past the first page?

A. That is right, we used $1.47.

Q. Can we assume your analysis of the others is just as sketchy?

Mr. Bongartz: Of other what?

The Witness: Other what?

Mr. Myskowski: Of the other exhibits which went to make up your final total.

Mr. Bongartz: Other exhibits?

Mr. Myskowski: Work papers.

The Witness: I think I made the statement on the record and I will make it again, we took the summary of their results to put it together to get a weighted average and each carrier will have to answer to its own figures.

By Mr. Myskowski:

Q. All right, sir, you are not in a position to answer. Is the man who supplied these papers to you for the Canton here today?

Mr. Langdon: I inquired yesterday whether the witnesses for the Canton and Western Maryland were to be required and he answered in the negative.

Mr. Myskowski: I did not give that answer.

Mr. Langdon: I inquired of Mr. Colgren. Yes, he is here.

Mr. Myskowski: All right. Let's get to him later, if [fol. 1476] you are not willing to vouch for these figures.

Mr. Bongartz: Just a moment. I ask that that statement be stricken, Mr. Examiner.

At the beginning of this hearing I explained quite clearly on the record if counsel had questions regarding the figures submitted by other railroads, that the witness from other railroads were here for cross-examination. I think the re-

mark of counsel was ill taken when he says that Mr. Heywood is not ready or willing to vouch for these figures.

I ask that the statement be stricken.

Exam. Boat: I think Mr. Heywood said he was relying on these figures. At least that is what his exhibit purports to do. I think that much can be said for them.

Mr. Myskowski: All right, sir.

By Mr. Myskowski:

Q. Do you have the work papers which show your marine costs at Baltimore for the Pennsylvania Railroad, I think it is the next to the last sheet on your Baltimore series.

It is headed "Port Differential Study, Baltimore Area, Baltimore Marine Costs."

A. Yes, I have it.

Q. All right, sir. Would you tell me from that page what the cost per ton is to lighter box car traffic at Baltimore by the Pennsylvania Railroad?

A. You say box car traffic?

[fol. 1477] Q. Yes, sir, that is what the heading says—box car, lighter.

It was box car traffic, though, that I was interested in.

A. If you want to know how much the cost per ton is—

Q. Yes, sir.

A. Forty-three cents.

Q. Does that seem reasonable to you?

A. That is the figure at Baltimore that we computed.

Q. How do you compute that figure?

A. By going down there and picking off the expenses and the tons that were handled, at Baltimore, in box cars.

Q. That figure at the top—operating floating equipment, 16,436.06. What is that, sir?

A. $16,436.06, that is exactly what it says—the cost of operating the floating equipment.

Q. Is that pay roll something like that?

A. It is pay roll and maintenance of the equipment, so forth.

Q. Could you tell me why there is no pay roll tax next to it?

A. That is possibly included in with the rest of the expenses in the total there.

Q. Now, sir, I do not know whether you want to confer with your colleague there, but is it not true that the lighterage at Baltimore for the Pennsylvania is not performed by the Pennsylvania, but performed by a separate company—is that right, sir?

A. Are you speaking only of lighterage?

[fol. 1478] Q. I am speaking of whatever is covered by these expenses.

A. Well, lighterage, yes, you are correct on that.

Q. So that would not be pay roll. That would be probably payments you made to the company?

A. That is right which would be inclusive, as I say, of pay roll, in that figure.

Q. At the bottom you say on that page "All floating equipment provided by American Transportation Company." "P.R.R. does not prove any equipment."

That should be Atlantic Transport Company, should it not, sir?

A. Atlantic Transport—you mean you are questioning the word "American"?

Q. You say American Transportation Company and its name is actually, as I understand it Atlantic Transport Company?

A. Well, I will accept your revision on it.

Q. Would you accept my statement that they get more than $2 a ton from you for just lightering this stuff?

A. I would not accept anything from you on that.

Q. Could you check, sir, with your colleague or whoever would have the correct figures?

A. I would say we would have to go back to Balitmore to do that.

Mr. Bongartz: You are not admitting these figures are incorrect, are you?

[fol. 1479] A. I did not say that.

I am saying, I do not agree with his figure of $2.00.

Mr. Myskowski: We informally—I had better not testify.

By Mr. Myskowski:

Q. You say "All equipment provided by American Transportation Company," which it turns out is the Atlantic Transport Company.

Were you in the room when Mr. Clark testified, Mr. Heywood?

A. When?

Q. Whatever day it was.

A. I guess not. If I do not know the day—I guess not.

Q. Mr. Clark stated "The most striking difference among the ports, New York, Philadelphia and Baltimore, indicative of both higher cost and greater operation at New York is the marine equipment which must be supplied, operated and maintained to meet the transportation needs of that port, in contrast to the ports of Philadelphia and Baltimore."

End of quote.

Mr. Clark listed as being owned by the Pennsylvania at New York some 322 pieces of equipment and, at Philadelphia, only five pieces of equipment.

Now, that impressed me very much, Mr. Heywood; is the reason why the Pennsylvania does not need equipment at Baltimore is because somebody else furnishes it?

A. In this, according to this note, that is true.

[fol. 1480] Q. All right, sir.

A. It still means we do not need the equipment, ourselves.

Q. It is not needed for the port.

A. I did not say it was not needed for the port.

Q. Mr. Clark's words were, quote "to meet the transportation needs of that port", close quote.

A. You had better speak to Mr. Clark and see if he means what he says.

Q. All right, sir.

At page 5 of Mr. Clark's statement he commented about how much more traffic has to be lightered at New York than at Baltimore and he listed a total of just about 147,000 tons for the year ending August 31, 1956, which had to be lightered at Baltimore.

When I divide that by 12, I got something like 12,000 tons a month. Would you say that is close, sir—147 divided by 12?

A. Yes, that is about it.

Q. And yet you list in September, 43,738 cars being lightered at a total cost of only $16,000—well, a total cost of about $18,700.

I am sorry. That is tons being lightered at a cost of about $18,700.

Would you say that there was some discrepancy between those two figures?

[fol. 1481] A. You mean between the average you computed and the figures here?

Q. If my average is wrong, I would like to have you check it.

A. I did not say your average mathematically was wrong.

Q. All right, sir.

Mr. Clark stated "From the above statement it will be seen that 61.1 per cent of the Pennsylvania Railroad export-import traffic at New York was waterborne while at Philadelphia only 1.3 per cent and at Baltimore 29.3 per cent of the Pennsylvania export-import traffic was given water service."

From the first page of the Pennsylvania Terminal studies a Baltimore, could you tell me how many cars of general cargo were handled by the Pennsylvania, during the month of September?

A. How many box cars?

Q. How many tons of box cars—how many tons of box-car traffic? It is on the first page, I believe, sir.

A. Tons of box car traffic.

Q. Yes, sir.

A. General cargo?

Q. Yes.

A. 34,722.

Q. Try the Pennsylvania, that is the B & O.

A. I beg your pardon. 34,738.

[fol. 1482] Q. At page 9 you show how many of those box cars are being lightered, sir.

A. Page 9.

Q. Yes.

A. All right.

Q. Or what would be the next-to the last page, the one we were just discussing previously—the one with the notation.

A. Perhaps I am looking at a different sheet than you are.

Q. Well—

A. I do not have cars.

Q. Tons.

Exam. Boat: The last figure you gave was tons.

Mr. Myskowski: Yes, 43,738 tons.

The Witness: 43,738. That is right.

By Mr. Myskowski:

Q. Are we to conclude from this that every single ton of general cargo traffic moving at Baltimore in box cars received lighterage service?

A. Yes, in my study that is what it says.

Q. I think you had better check, Mr. Heywood?

A. All right, let me check.

Q. I think you had better.

A. I understand some of the 43 was not lightered.

Q. Did you have any idea how much?

A. No, sir, I do not.

Q. That "43" was used at the divisor in computing the [fol. 1483] marine cost and in computing the station cost, is that correct?

A. That is correct.

Q. To the extent it was not lightered, your cost would go up, is not that right, sir?

A. Whatever tons we take out of there would push it up, yes, sir.

Q. You have no way of finding out at the moment how many—

A. No, sir, and I understand that figure is not available.

Q. What did you do, just take the total tons?

A. These are the total tons handled by box cars at Baltimore.

Q. So you just used that figure and divided the total station expenses?

A. No, we did not "just." We used it on the theory that we were considering all of the tons was getting lightered even though there was a small part that was not and therefore it did cut down, as you say, already the cost per ton of lighter or station or whatever it is.

Q. Mr. Heywood, is it just a small part; Mr. Clark indicates that the volume which moves by rail is 553,000, compared with about 147,000, which moves by lighter.

A. Well, I do not know—I said small. Maybe I had better not say small. A part of the 43 was not lightered.

Q. If the important portion was the same as Mr. Clark's, it would be very substantial, a substantial part, would it not?

A. Yes, if the—

[fol. 1484] Q. And the cost you show at Baltimore would be several times higher, would it not, sir?

A. Yes, sir.

Q. Now, Mr. Heywood, I hate to keep switching around like this, but these notes are just in that shape. Would you take your studies at New York. I think they are the ones like this that you made up—the working papers for the figures on the Pennsylvania only at New York.

On the sheet which says "Station Costs," it is about the fifteenth sheet "Summary, New York Area, September, 1956," do you have that, sir? It is only half filled.

A. Station costs New York area.

Q. Station costs, summary, New York Area, do you have that, sir?

The figures at the top left 25,513.24.

A. $25,513.24.

Q. All right, sir.

There you have summarized the station costs for box car traffic which move by truck in lieu of lighterage.

That is the third group there.

And for Jersey City piers, you have a total station cost of $12,467.03; is that correct, sir?

A. Jersey City Piers?

Q. Yes, sir.

A. That is not on that same sheet, is it?

[fol. 1485] Q. It is the last column over to the right, sir.

A. I beg your pardon. I was looking at the titles.

Q. It is the fifth column on the last column.

A. $12,467.03.

Q. All right, sir. Two pages further on I believe you show that there were 3,160.8 tons which were trucked in lieu of lighterage over the Jersey City piers. That is near the bottom.

A. 12,000—

Q. The tonnage is 3,160.8.

A. I have the Jersey City.

Q. Trucks in lieu of lighterage, 3,160.8.

A. Yes.

Q. If you divide that 3,160.8 into 12,467, I get $3.95. It would be something less than $4 a ton, is that right, sir?

A. It would be about four dollars a ton.

Q. The next one is the Desbrosses Street Station. The total cost shown is $62,804.52. That is on that summary sheet, sir.

A. I have that.

Q. And on the sheet dealing with station costs, Desbrosses Street Station, you show that there was a total of carload traffic, total tons of carload traffic, 10,549—do you see that, sir?

A. Yes, sir.

Q. If you divide that 10,549 tons into 62,804, I have 595—it would be something less than six dollars a ton. [fol. 1486] Would that be right, sir?

A. Roughly, I would accept your figures.

Q. So it would be about 50 per cent more from one pier to the next pier: 395 as against 5.95.

A. No, the Jersey City piers are somewhat different than over on the Manhattan side.

Q. Let us take the next one, West 12th Street. There you show a total of $15,966.42 and on the sheet which shows the station costs for West 12th Street you show a total, at the bottom of 1225 tons which were trucked in lieu of lighterage, is that right, sir?

The last figure in the column.

A. Yes, 1225.

Q. If you divide that 1225 into $15,966.42. I get over $13 a ton for the station costs. Would that be right, sir?

A. That is what the figures show.

Q. Can you give me any explanation as to why one station has costs of less than $4 a ton and another station has costs of over $13 a ton?

A. Yes. Different classes of traffic than the other one, in the first place.

Q. Then you do admit that different classes can result in tremendous differences in cost?

A. I admitted sometime ago, that different kinds of traffic cause different costs. I did not admit it was tremendous, [fol. 1487] or colossal or something but I did admit—

Q. Three times as much as that is pretty big.

A. Three times as much as what is pretty big?

Q. Four dollars as compared to $13.

A. Yes, it is $8 difference.

Q. Nine.

A. Another thing that entered into it is not only the class of traffic but the volume of traffic.

Q. Well, Mr. Heywood, I think you are probably right.

A. Probably, what do you mean?

Q. I will agree wholeheartedly with you. If the railroads serving New York were able to reduce their rate and attract more traffic, don't you agree their costs would go down?

A. Out of pocket? Is it out of pocket you are speaking of?

Q. Either way.

A. No, out of pocket, it goes up, the more units.

Q. Well, that is assuming, Mr. Heywood, that you are now operating on an out-of-pocket loss. Right?

A. Assume we are now operating on an out-of-pocket loss, yes. Let us assume it.

A. Let us say that is your assumption?

A. From me?

Q. We are satisfied you were not, but we thought that is what you are assuming.

A. I? No, I am not. I am not assuming anything.

[fol. 1488] Mr. Bongartz: May I object to the form of these questions? Counsel said, let's assume something.

The witness says, let's assume it. Then counsel says, "It is your assumption." That is certainly not proper cross-examination, I object to it.

Exam. Boat: I think he asked the witness to assume that, and the witness said he would for the purpose of the question. That is my understanding of it.

By Mr. Myskowski:

Q. Did you bring with you your 1956 Form A Annual Report which you filed with the Commission?

A. No.

Q. Did Mr. Coglen ask you for that yesterday?

A. No, not that I recall.

Q. Mr. Heywood, have you any idea what the investment of the Pennsylvania Railroad is in floating equipment—the total investment?

A. No, I really do not at all have that figure in mind.

Q. Have you any idea what repairs on barges, maintenance of barges should run? Would that be in your experience 10, 20 or 25 per cent of the investment or the cost of the barges?

A. I do not know.

Q. You have no idea?

A. No idea, none whatever.

Q. Mr. Heywood, the costs to the Pennsylvania Railroad in handling grain at Baltimore are shown, I believe, in the [fol. 1489] last of the figures you have covering your Baltimore study?

A. Yes, I have the sheet.

Q. What is the cost per ton before credits?

A. $2.38.

Q. Do you mean $1.38?

A. Excuse me. I am sorry. $1.38.

Q. Can you tell me what are the costs per ton at New York, before credits?

A. Do you mean for grain?

Q. Yes—the last page of your other study?

A. 17 cents.

Q. So the costs at New York are 17 cents and the costs at Baltimore are $1.38 a ton, but you have against the cost at Baltimore a credit of $1.47 a ton, is that right, sir?

A. Yes, sir.

Q. What about the credits at New York?

A. There were not any credits here.

Q. If these rates are equalized, as we hope, and there is a sufficient volume going through New York to justify the construction of a grain elevator there, have you any reason to assume it would be less profitable than at Baltimore?

A. Gentlemen, I have not that crystal ball and even if I had, I could not tell you.

Q. At any rate if you did not have the credits at Baltimore, the cost of handling grain at Baltimore would be [fol. 1490] several times the handling cost at New York?

A. Well, I do not know. Certainly, in a second I cannot set up an imaginary operation and tell you what it would be.

And, anyway, it is not that way, and I doubt if it is going to be that way, so we will stay with the figures we have.

Mr. Myskowski: Mr. Examiner, could we have a recess for ten minutes now? We are trying to get an annual report. After that, it is the last series of questions.

Exam. Boat: All right.

Let us recess now and try to be back in ten minutes.

(A short recess was taken.)

Exam. Boat: Let us proceed.

By Mr. Myskowski:

Q. Will you take the 1956 annual report of the Pennsylvania Railroad, which was filed with the Commission and turn to page 202, sir?

A. Yes, sir.

Q. Line 45, the last column, column "L", shows the investment in floating equipment.

A. That is right.

Q. Would you give me that figure, sir?

A. $18,042,983.

Q. Would you turn to schedule 320 at page 306?

A. Yes.

Q. Look at line 83, which says "Floating Equipment Repairs," and will you give me that figure?

[fol. 1491] A. $2,981,625.

Q. All right, sir. The floating equipment repairs is then sometimes 16 and 20 per cent of the investment in such floating equipment, is that right?

A. Yes, somewhere in that neighborhood.

Q. Would you turn to your sheet headed "Floatage Costs, New York, September, 1956."

A. Which is this—the rough papers?

Q. Yes, the cost studies, yes, sir.

Mr. Bongartz: The work papers.

Mr. Myskowski: Yes, the work papers.

The Witness: Yes.

By Mr. Myskowski:

Q. Would you please look at the figures which you show for Account No. 323, Floating Equipment Repairs, Barges?

A. 323.

Q. Yes, sir. There are four figures there in that column, or across that line.

A. I must have the wrong sheet.

Q. Yes.

A. Yes, tugs, floats, barges and grain.

Q. If you add those up, it comes to something like $88,000, sir, roughly—is that right, sir, those four figures.

A. Just a moment. Which four figures do you mean now?

[fol. 1492] Q. The $50,905—

A. Are we only working on barges?

Q. Yes.

A. Let's see. How much did you say?

Q. $50,000—

A. What was your total?

Q. $88,000.

A. Pretty close to 88, yes, sir.

Q. If we multiply that by 12, we get something like $1,055,000 per year for barge repairs. Would that be right, assuming my arithmetic is right?

A. 12 times this.

Q. 12 times 88?

A. Yes.

Q. If you take on the next sheet—I am sorry, sir, it is on the same sheet.

If you will take the figures on depreciation which are shown as $2,061.22, $1,693.52 and add those together we have $3,754.74.

That is for depreciation for barges for the month of September, is that right, sir?

A. That is right.

Q. Your annual report, I believe, if you still have it there, shows that your annual rate of depreciation is 2.74. That is on page 206—

[fol. 1493] A. Yes, 2.74.

Q. I divided that 2.74 into the depreciation of $3,254.77 and came out with a total investment in barges of something like $1,037,000. Does that seem fairly close to you, sir?

A. I will accept the figure you got from that.

Q. Then for barges, you would have on an annual basis over a million and fifty-six thousand of repairs compared to a total investment of $1,370,000 or about 75 or 80 per cent of your total investment accounting for barge repairs, compared to the 16 or 20 per cent which you show on a yearly basis for all floating equipment, is that right, sir?

A. That is your analysis of it. I will have to go by what you say there—what you come up with.

Q. That would not shock you if you had 80 per cent of your total investment in the form of repairs in one year?

A. Well, I am not from an operating department, so I do not know whether it would shock me or not.

Mr. Myskowski: That is all we have of Mr. Heywood, sir.

(Witness excused.)

Mr. Myskowski: Could we have available the gentleman who submitted the Canton work papers?

Exam. Boat: Is he present?

Mr. Bongartz: He is here, sir.

[fol. 1494] Mr. Bongartz: Mr. Heywood is excused, is he?

Exam. Boat: Yes. You had finished with him, and I take it he can be excused.

(Witness excused.)

JOHN B. BOURNE being previously duly sworn, testified as follows:

By Mr. Myskowski:

Q. Did you prepare the work papers which were given to Mr. Heywood to use in the preparation of the exhibits in this case?

A. Not in their entirety, sir, but I put them together, and did most of the work.

Direct examination.

By Mr. Langdon:

Q. Mr. Bourne, do you mind giving your name and position for the record?

A. John B. Bourne, Secretary and Assistant Treasurer, Canton Railroad Company.

Exam. Boat: It is spelled B-o-u-r-n-e?

The Witness: Yes, sir.

By Mr. Langdon:

Q. Canton is one of the railroads at Baltimore which participated in the preparation of the special terminal cost study in connection with this case?

A. Yes, sir.

Q. And the results, so far as you know, were consolidated with the results in the exhibits named in this case—the cost exhibit filed in this case for Baltimore?

[fol. 1495] A. Yes, sir.

Cross examination.

By Mr. Myskowski:

Q. Mr. Bourne, would you please turn to the first page of your working papers?

In the last column at the bottom you have a figure of $1.47, which I assume is per ton, shown as the platform costs for the Canton Railroad for September, 1956. Is that right, sir?

A. That is right.

Q. Mr. Heywood's study indicates that $1.47 was the total cost per ton for the Canton for handling the traffic involved. Is that right, sir?

A. That is right.

Q. Mr. Heywood's study indicates that $1.47 was the total cost per ton for the Canton for handling the traffic involved. Is that right, sir?

A. It is the average cost, sir.

Q. Would you turn to page four of those work papers, sir?

The heading is "Canton Railroad Company, Docket No. 6615, Cost Allocatable to Platform Tonnage."

Am I wrong in assuming that those costs are in addition to this $1.47?

A. You are wrong, sir.

Q. What are those costs?

A. These are—this page four that we referred to summarizes by source; that is, account, or general allocation, the total allocated platform cost for Canton Railroad for September, 1956, as derived from the cost schedules farther back in the exhibits.

Exam. Boat: Further back in the working papers?

[fol. 1496] The Witness: Yes, sir.

In order to allocate these platform costs to specific tonnages, it is necessary for me to refer to another schedule.

By Mr. Myskowski:

Q. All right, sir.

A. My page 3?

Q. Yes, sir.

A. Column 13. This show the sum of Columns 12 and 13, which columns are the same expenses summarized as having been allocated to specific commodities for the purpose of determining box versus open top freight statistics.

Q. All right, sir. I want to track this $1.82 into this $1.47.

A. All right, sir.

Q. Would you continue?

A. I would have to volunteer, then. There are amounts, as I said, on my Schedule 3, the restatement of these total platform costs that have been allocated on the basis of weighted tonnages, and since our pier warehouses are multi-

storage warehouses, we have a significant tonnage in storage and the initial application of cost to the individual ton had to take into consideration this storage function.

That was accomplished on page 3. The totals as set out in Columns 12 and 13 of page 3 by commodity were brought forward to my page 2, and to cite an example, my page 3, line 2, sugar, for platform cost allocated to so-called through [fol. 1497] tonnage; that is, the tonnage opposed to tonnage originating from storage, is split between rail and truck, on an average ton basis in the sugar column on my page 2, on lines 17 and 14.

Q. Sir, I am sorry. I cannot follow that. Maybe you could help me this way. If you go to page one and—let us take sugar, $5.57 as your net ton cost. And next to that, you have a figure, net cost of $20,848.68. Is that right, sir?

A. Yes, sir.

Q. Can you find that $20,848.68 anywhere else here?

A. No, sir.

Mr. Myskowski: I am sorry, I am lost. I guess we cannot ask any more than that about that, sir.

Mr. Langdon: What is your problem?

Mr. Myskowski: I am trying to figure out. On page one, he seems to have what are direct platform costs, and on page four he seems to have allocated platform cost. I assume the two are separate and should be added together, but he tells me somehow the $1.47 plus $1.82 has not got to the $1.47.

I have not been able to track it down, and I am getting nowhere very fast.

Mr. Langdon: In the light of the comment of counsel, do you want to undertake briefly another explanation?

The Witness: Yes, sir, I will try, if you will begin with my page one, sir.

Mr. Myskowski: All right, sir.

[fol. 1498] The Witness: In the instance of the commodity "sugar", working from left to right, we have columns 2 and 3 composed of a specific platform operation, checking from ship and high piling.

It is the railroad's responsibility to check the accounts coming on its platforms and it is also the railroad's responsibility to pile the commodity to a more practical height than the stevedore is willing to do.

And 41 cents, in this particular instance, is our 1956 average for that specific operation.

By Mr. Myskowski:

Q. Where can I find that, sir?

A. You cannot find that specific item in here for the reason that in September 1956 there was no sugar discharged at Canton Railroad's piers.

Q. There was no sugar discharged?

A. No, sir.

Q. And yet you have costs for it.

A. Absolutely. These costs are job costs. Developed to reflect the average cost, the platform cost of a ton across our piers.

Exam. Boat: They are composite costs, in other words—is that it?

The Witness: Well, sir—

Exam. Boat: By job cost, do you mean it is a composite cost?

[fol. 1499] A. It is a composite reflecting those accounts we have to perform in connection with a ton across our pier—a net ton.

Exam. Boat: And that, of course, reflects all types of traffic that are handled in that way?

The Witness: Yes, sir, in the absence, sir, if I might explain, of any significant quantity of warehouse tonnage, and with a perfect balance between tonnage received and shipped; those two being interdependent, you would not have this peculiar situation, but in that this commodity, sugar, is a significant one for us, and there was none received during that month, that the cost of that operation had to be included in order to come up with a ton cost on that commodity.

The total costs allocated—

By Mr. Myskowski:

Q. Sir, where do you get—

A. Go on, sir.

Q. Where do you get the tons, if there was none discharged?

A. The tons were those shipped.

Q. This 41, this is an import commodity?

A. This is an import commodity.

Q. This 41 cents is something you developed over the whole year and this is your average for the operation?

A. Yes.

Q. You made no study for this case. How much it cost you to handle this commodity or any other? You are using your average for the year per job—is that what you call it? [fol. 1500] A. This sugar came in over the months prior to September, 1956, and it seemed most realistic to use the annual average.

Q. And the same thing is true about all these other figures in here?

A. No, sir. This is the only situation.

Q. Let us take the next one—$1.09. Where could I find something that looks like that for sugar, loading, delivery into trucks.

A. Yes, sir, that column is a little misleading. It should just say loading and delivery. That is to truck or car. My page 2, in the sugar column, develops, from lines five through ten, the average cost in this instance, excluding the checking in and high piling of a ton of sugar across our piers—the direct labor.

Because, you see, we had tons shipped out and we had the costs thereof, specific costs, plus the occupancy based on our allocation formula of assessing total platform costs other than direct labor on the basis of the area occupied.

By Mr. Myskowski:

Q. I see a figure of $1.09. That is comprised of adding up the three figures there and coming up with a total of $4,096.11. Is that right, sir?

A. Yes, and the divisor the rail tons ship.

Q. That first figure, $2640.70, that footnote says is direct labor and foreman loading and unloading. Is that right, sir?

A. That is direct labor.

[fol. 1501] Q. And you add to that the pay roll taxes and vacations?

A. Vacations and holidays.

Q. Occupancy, is that warehousing?

A. That is again going necessarily to the statement on page four, in the reference I made, also, to page 3, is the total platform expense other than direct labor, pay roll taxes and holiday.

Q. You call that occupancy?

A. Yes, sir. If I might volunteer the information, we have the unique situation at Canton of having four general piers adjacent to one another, one switching a relatively limited number of significant commodities—excuse me. I wanted to say this.

I wanted to mention again the fact that we do have storage and it required us in order to assess the costs equitably against each net ton across the tiers to take into account the fact we had tons resting in storage. We had a source of revenue for those periods, so we tried to cost those tons as well as those that went through, the tons in storage.

The net effect we can develop here with the commodity "sugar," if you like, on page 1:

Q. On page 1 you list a lot of credits. Is that the rents you get from truckers for using the warehouses and piers and things of that sort?

[fol. 1502] A. We do not rent any space to truckers. But there are labor charges for delivery to truck and our top wharfage revenue, which is the privilege charge.

Q. And you offset those against the cost of the rail shipments, is that right, sir?

A. Yes, sir. We thought it would be only to over-state costs to do otherwise.

Q. On your page 3, in your fifth column, you indicate that you had 2,122 net tons which were lightered, is that right, sir?

A. I might explain that, sir, by saying that was a commodity lightered to a vessel at our pier for which we get side wharfage and to which, realistically, we would have to assess an element of occupancy.

Q. You did not do any lightering—the Canton Railroad?

A. No, sir.

Q. Does anybody do any for you?

A. No, sir.

Q. So where you have tons lightered, that actually is tons which were lightered to you, not tons which you handled in some sort of lighterage service?

A. That is right, sir, the steamship agency would arrange for that.

Q. Is there any place where we could check or get the source for these figures on page 4?

[fol. 1503] A. Yes, sir. Pages 16 through 25 are basic schedules of the initial cost allocation. They show the costs selected for this study, that is other than the direct costs, maintenance costs, he had to use the 1956 annual average, or in some instances the five years ended December 31, 1956 average, in order to have a representative cost, together with an allocation reference column, and then the basic allocation to switching versus platform cost.

Q. Most of these, sir, I understand are on an average basis, rather than—

A. No, most of these are on a separate, I think you will find.

Q. But some of them are on an average basis.

A. In the instance of maintenance.

Q. Maintenance?

A. Yes, sir.

Exam. Boat: Do you have any further questions?

Mr. Myskowski: No further questions, sir.

Exam. Boat: That seems to be all, Mr. Bourne, thank you. You are excused.

(Witness excused.)

Is there any further cross examination of this or any witness now?

Mr. Colgren: No.

Exam. Boat: That seems to conclude it.

Off the record.

[fol. 1504] (Discussion off the record.)

Exam. Boat: On the record.

Mr. Colgren: I think I misspoke when I said I was through. We had some questions left for witness Clark, which I attempted to refer to Mr. Heywood, and which were

referred to Mr. Clark, and I overlooked that fact. We do have a few further questions.

F. H. CLARK previously sworn, testified as follows:

Exam. Boat: Your counsel is Mr. Taylor?
The Witness: Yes, sir.

Cross examination.

By Mr. Colgren:

Q. Mr. Clark, I would like to refer to the figures in connection with the yard switching study which were furnished to Mr. Heywood for inclusion in the cost study.

This is at the New York area. Mr. Heywood gave me the names of four yards, I believe, which he indicated were covered in this study.

Harsimus Cove, Waverly Yard, Meadows Yard, and Greenville. Is that right, sir?

A. Those are the four major yards. The entire area embraced within those four are descriptive of the distances covered. There are other small auxiliary yards also involved.

Q. Do they have separate names or designations or can [fol. 1505] you describe them to me?

A. Well, there is classification. If I recall your question, your question lead up to this matter why we show the average of 10.6 minutes per car, and so on. That comes about from the fact when we studied this area we studied the entire area embraced within the descriptive limits of Greenville, Waverly, Meadows and Harsimus Cove for the entire traffic to ascertain the average minutes per car for the various elements of service, and then having ascertained that we took the import and export cars from and to differential territory in the same study week and traced their movements throughout this entire area that was studied, both loaded and empty movement.

And then we applied the average minutes per car for the various elements of service accorded those particular import and export cars.

As a result of this situation—if you look at your classification there, in the first column, you will find a six point six average minutes per car. That is the average minutes for classification at Greenville. We had to reach out into Greenville yard to obtain some of the empty cars that were used for the import shipments. Therefore there was a classification at Greenville for the empty car, a classification at Harsimus Cove which is the 10.3 figure, before the car could be placed for loading.

[fol. 1506] After it was loaded, it came out and was dispatched and it would have another 10.3 as a loaded car and depending on how it was handled into the road train, it might or might not get a further classification.

For example, if the car was moved west in a train that originated at Greenville it would have to be picked up at Waverly yard. That would mean that the loaded car would be moved from Harsimus Cove to Waverly Yard, Newark, in which case you would get a 10.2 average minutes per car.

There it would be picked up by the road train.

Q. How did you actually trace these export and import cars through the yards?

A. Traced them through the records.

Q. By car numbers?

A. By car numbers.

Q. Why was it we were not able to get the number of cars when we requested that information, if you had the car numbers available?

A. You did get the number of cars, as I understand it. I understand you were furnished another statement by Mr. Heywood to show the number of cars and the number of minutes for the entire study.

Q. No we did not get the number of cars. We got the car movements which were meaningless to us.

A. I beg to differ with you a little bit. The distinguishing [fol. 1507] between movements and cars is more academic than real. What you have there in the so-called movement is the addition of the cars in these four or more yards, that receive classifications.

Q. Can you tell me the number of cars that are included in the movement shown for classification, the figure was supplied us of 31,235.

A. That is the grand total for all yards.

I would have to work out that. I can give it to you in this form. I can give you the number of cars in each of those major yards that are represented in this statement that you referred to originally.

In other words, to this one yard for the export-import cars.

Q. That would be very helpful.

A. Harsimus Cove, 5,557.

Q. Waverly?

A. 4,799.

Greenville—

Q. Not too fast, if you please.

A. 9,896.

Meadows, 6,329.

That totals 29,281.

Q. You made mention of other yards. They are included [fol. 1508] in the four you named, is that right?

A. No, there would be additional cars, then, in other words, the difference between the 31,235 which you got on another statement from Mr. Heywood and this 29,281 would represent cars that were classified at small points like Port Newark, Kearney, Harrison, New Jersey.

And there you would not get in to this particular export-import study.

Q. Do you have the minutes in connection with each of those totals?

A. I have. In the same order, Harsimus Cove, 56,961.

Waverly, 76,340.

Greenville, 65,173.

Meadows, 57,266.

I have not totaled that. 255,740 is the total.

Exam. Boat: Mr. Clark, are these cars now that you speak of in this connection cars moving in import and export?

A. No, these cars are the total cars used to determine—as a part of the total used to determine the average minutes per car and having done that, we applied it to the export-import cars which are shown on the sh[illegible] Mr. Heywood furnished.

Exam. Boat: But the figures you read related to all sorts of cars?

The Witness: All traffic, yes.

[fol. 1509] By Mr. Colgren:

Q. Can you supply me the same information in connection with industrial switching?

A. Not now I cannot, no. I would have to get that out. It would have to be worked up from my working sheets.

Q. How as it decided, or who decided the amount of service that was accorded the export and import cars—the elements?

A. I checked through my men. That would be not a case of deciding but actually checking the movements and services that were given.

Just as I am sitting here now. An import car arrives in New York today, and it is going to get certain services, six months from now I can go back and check the movements of that car. Nobody is making the decision what it shall get, other than the supervisory men in charge at the time.

Q. Can you account, Mr. Clark, for the amount of industrial switching that is indicated in this information we were supplied?

A. It is the pier switching and the switching to and from float bridges and occasionally there would be a car into Harbor-side warehouse.

Q. What is included in this term "transfer service"?

A. Those are the movements between yards, between yards and industries and, if the distance and time warrants, it would be from a point in the yard to a scale track.

[fol. 1510] If it was a car to be iced and distance and time were such to warrant, it would be for segregation and transfer of that car to the ice tracks and the return movements.

Q. Mr. Clark, do you have incidentally, Mr. Heywood's sheet 9 in front of you?

A. No, sir, I have one of his papers.

Q. He indicates various numbers of cars of export-import traffic, in connection with each one of these areas which you have given to me, for instance, 69 cars moving through Harsimus Cove.

Are those just the loaded cars or does that include the empty return movement?

A. To the extent that he used these average units against those 69k it will include the empty as well, that is provided he used it on a total-car basis.

I can not answer for them as to what he did.

Q. Does the export-import traffic in the New York area involve much local switching, Mr. Clark?

A. It involves as represented by this statement.

Q. There is no such designation, Mr. Clark, and I am asking if it is included in here in some other way.

A. I do not understand your remarks, sir. This statement itself shows on the face of it that it relates, for example, to 79 cars of import freight from differential territory.

[fol. 1511] Mr. Taylor: What was your question, Mr. Colgren?

Mr. Colgren: Whether there was any local switching involved in this.

The Witness: All the switching given import and export cars to and from differential territory is represented on that sheet.

By Mr. Colgren:

Q. Is there any switching of local cars?

A. What do you mean by local switching?

Q. Well, the area you have described for these yards I think you will agree with me is a highly industrialized section. Is that not true?

A. Oh, I do not know, there is much industry in the New York area. It does not compare with Philadelphia. There are some industries there.

Q. All right. I will accept that. There are some industries there.

Q. You have given me total cars, 31,235, now out of those 31,235 cars which are not the export-import cars, as you have indicated—

A. They are in it. They are all cars, including the export-import.

Q. That is right. Within those 31,235 cars is there any local switching?

A. Certainly.

Q. Included in it?

[fol. 1512] A. No, not in this statement. This statement relates to the export-import cars but the average units per car have been derived by taking all cars within the switching—

Mr. Taylor: Mr. Clark, when you refer to this statement, you are referring to a statement which was supplied Mr. Colgren?

The Witness: My opening remarks said so. I do not know whether there has been an identifying mark put on it or not. If so, I am not aware of it.

By Mr. Colgren:

Q. I think we have to get squared away again here, whether or not the figure you gave us adds up to the 31,235 which is the figure shown on Mr. Heywood's reply to me dated March 18, 1958 and appears opposite the designation.

A. I explained to you the difference. I said the difference lay in classification at such point as point Newark, Kearney, Harrison, New Jersey, which were not involved in the export-import cars of the switching week, and therefore they are excluded from the twenty-nine-thousand odd cars that I gave you as being embraced within this particular export-import statement.

Q. Am I to gather from your answer that these are actual cars?

A. Certainly.

Q. There were five thousand, 557 cars moved through [fol. 1513] Harsimus Cove—

A. I beg your pardon. That is not correct. That is wrong. A car could be at Waverly, and also the same car could be at the Cove. So in these statements I have given you, that same car, if that so happened, would be in both of those figures.

Q. Then these are not cars?

A. No.

Q. These are car movements.

A. They are not cars, but they are counted in as many yards as they were actually handled and classified.

Q. You stated you made a car-by-car study in connection with the export and import cars. Can you supply the number of cars of export and import traffic?

A. They are shown on the sheet which you have there. They add up on the import, 87 and 394 export.

No, not on that sheet, on the—

Q. O.K. All right. Can we have a total of all cars?

A. I do not see how it can be given to you as individual cars because of the mode of operation in that area. Cars going to Harsimus Cove or to Greenville have to pass through Waverly Yard, sometimes bypassing the yard, sometimes being cut off there.

Q. But you indicated you made a study yard by yard?

A. We did, and I have just given you the classification [fol. 1514] yard by yard, and the cars and minutes that entered into it.

Q. Yes, and also car by car, yard by yard and car by car.

A. All right, you have it there.

Q. Now, can we have—

A. Now what you are asking me to do is to fan that all down so that I will get car number 1 at Waverly and I will also get car No. 1 at the Cove and that is the way you have got it there.

It would be impossible to do what you are striving to do, to get down into the actual cars.

Q. Did you cycle the cars?

A. Pardon?

Q. Did you cycle the cars which are involved in this switching study?

A. What do you mean by cycle?

Q. Take them from the time they were loaded or received until they were dispatched or made empty?

A. You mean when we made the original switching study?

Q. Yes, sir.

A. You followed your crew and measured everything they did.

Q. Did you follow the car?

A. Certainly you did, in your individual studies.

Q. Then don't you have a count of cars?

A. You would have to go back to your original cards and [fol. 1515] count your cars.

Q. All right.

A. Then you would still have the same situation, that you would come back to this total, because, for example, the road train would come in to Waverly Yard and set off a car that was eventually destined to Harsimus Cove.

Q. Well—

A. Let me finish. You would get a classification to Waverly Yard. You would get a transfer movement to Harsimus Cove and at Harsimus.

If I am counting cars, I am going to count that car at Waverly and then again at Harsimus Cove and eventually I would be back to the same total figure there.

Q. Would you give us a sample at any one of these points of the underlying data which comprised the switching study?

A. I would want to understand exactly what you mean by sample. Do you mean the actual switching cards, or do you want a planning card or what?

Q. Do you have anything that compares with the forms either 1, 2 or 3, in the form "F" switching study?

A. My card is the form "F" switching study. In fact, I made them in that form before they ever appeared in the form "F" study.

Q. Then you should apparently be able to give us a car count, if you have that information.

[fol. 1516] A. I have given you that car count already in the various cards.

Q. These are, as I understand it, movements.

A. They are cars, too.

Each individual yard there handled each of those cars that I gave you by yards. The same car that was handled at Waverly might also be handled at the Cove, but it gets an independent switching service at each of those places and it is a car for each of those yards.

Let us take it this way for example. Suppose this study applied only to the City of Newark. Then you would only

have what is shown there at Waverly yard and no question of duplication of car count.

Q. Yes, but I would still want to know the number of cars.

A. That would be the number of cars that you got for Waverly.

Q. Do you have any of your work papers with you?

A. No.

Q. It still appears these figures you have given us that purported to be cars are actually car movements. I do not know what in the world we can ask you to do than we have in order to secure the number of cars that are involved here.

Mr. Taylor: Mr. Examiner, Mr. Clark has explained what the words mean and told them everything he has available and I think we are just wasting time arguing over what the words mean. The witness has said what the words mean to him.

[fol. 1517] Mr. Colgren: I am not quibbling about words. We can not get the information we are asking for.

The Witness: You are getting the information but you do not understand it. You are getting the information.

By Mr. Colgren:

Q. The information is too tied up in the Form given to us to get what we want.

A. You do not understand it. That is where the trouble is.

Q. That may well be. But other people will be able to understand it and—

A. They are welcome. They can see the sheets.

Q. I asked you if you would supply us any for any one of these four breakdowns which you have given us the basic information which was developed.

A. I want to understand it. Do you want the grand total information, for instance, the Waverly yard, how that was obtained or just one sample?

Q. Will you give us one engine trick, a typical period or something, whatever you might term it?

A. Do you want one of these cards that was filled out by the crew or the blank form. Do you want that?

Q. By the crew.

A. I will have to photostat it.

Mr. Taylor: Get this straight. You are going to supply one of those cards filled out by the engine crew?

The Witness: I will photostat it and send them a copy [fol. 1518] of one of the cards.

By Mr. Colgren:

Q. And we want all of the necessary information that goes with it, in order to follow this thing through?

A. You will have all the information on that card that would show how the various elements of service were ascertained.

Q. Do you have, or did you utilize in making your switching study, a card which follows a car all the way through its various movements?

A. You mean, for example, that we take a statement and show car No. 1 and show all the elements—

Q. Yes.

A. No, no, sir.

Wait a minute. So far as these import and export cars are concerned, they are all listed and every element of service given them is shown on the similar sheet, but these 29,000 cars are not listed.

Q. Then may we have one card at least for an export or import, or perhaps one of each—an export card and an import card?

A. In other words, you want the switching card used by the crew and one of these summary sheets for an export and import car.

Q. Yes, which describes the movements of this car.

[fol. 1519] A. Yes, and there will be more than one car listed on that summary sheet.

Q. Well, I think you understand what we need and want and I am sure you will make every effort to supply everything that is necessary to satisfy our problem here.

A. Thank you.

Mr. Colgren: Now, I suppose the Commission might be interested in a copy of that. I do not know, Mr. Examiner.

Exam. Boat: Well, I hardly think so.

Mr. Colgren: Perhaps not.

Mr. Taylor: We will send the Examiner a copy of everything we send to the other side.

Exam. Boat: I appreciate it.

Mr. Taylor: Whether interested or not, I suppose.

Mr. Myskowski: I did not ask for Mr. Taylor but I wondered if I could ask a couple of questions with respect to the tonnages.

Mr. Taylor: With respect to what?

Mr. Myskowski: Tonnages.

Mr. Taylor: On the cross-examination of Mr. Clark on his direct statement.

Mr. Myskowski: Yes, sir.

Mr. Taylor: Unfortunately I do not have it with me.

The Witness: I don't, either.

Mr. Taylor: Mr. Clark does not have it, either.

[fol. 1520] Mr. Myskowski: We have an extra copy.

Mr. Langdon: Is this cross-examination on his prior statement on which he was—

Mr. Myskowski: Yes, sir.

By Mr. Myskowski:

Q. On page 5 you show during the year ending August 31, 1956, there were 147,000 cars lightered, is that right, sir—I mean tons lightered?

A. Tons.

Q. Yes.

A. Where is this now?

Q. Your figure at the top, the last two columns, the top figure.

A. What was the figure you quoted?

Q. At Baltimore?

A. You did not say Baltimore.

Q. I am sorry—at Baltimore there were a total of 147,000 tons lightered. Is that right, sir?

A. You have added the export and import together.

Q. Yes, just that 126,000.

And you show at the bottom, sir, there were about 554,000 tons handled by rail.

A. If they add to that figure, shown here on the statement—

Q. If Mr. Heywood's exhibit shows that in the month of September, there were 43,000 tons lightered, would you have some doubt as to the accuracy of that figure?

[fol. 1521] Mr. Taylor: I object to the form of that question. I think—

By Mr. Myskowski:

Q. If Mr. Heywood's Exhibit does show that tonnage, could you give me any explanation between the two?

A. I can not explain Mr. Heywood's testimony.

Q. The figures you have in the first two columns showing New York—you have export, 779,197 and import, 304,225, which adds up to 1,083,000 tons. Now, sir, other than ore and grain, that is the total import-export tonnage handled by the Pennsylvania Railroad at New York, is that right, sir?

A. According to our lighterage records, yes, sir.

Q. Are your lighterage records the same source that was used by the Pennsylvania in supplying—

A. Let me add to that statement this represents waterborne.

For example, if we had a car of export rail to Port Newark, it is not in here.

Q. What is this "handled by rail" at the bottom here? Would that not cover that movement?

A. As far as New York is concerned, there is only 61 tons shown there as imported. It only includes the waterborne traffic to Port Newark. It does not include any that might have been railed to Port Newark. I do not know whether there was any actual tonnage railed to Port New-
[fol. 1522] ark, export-import but if there were, it is not in this statement.

Q. Then this statement does not show what the total export-import tonnage might have been, is that right?

A. It shows all export-import tonnage was handled by water.

Q. And you do not have any idea whether there was any substantial volume handled by rail during that period?

A. Port Newark, so far as the Pennsy is concerned, we do not have much export-import going there.

Q. It would be fairly small, then?

A. I do recall one movement of 40-some cars a couple of years ago. That is all.

Q. Roughly, the total handled by the Pennsy would not vary too much from the figures shown here?

A. With the exclusion of grain and ore shown there.

Q. Is your source the same source that was used in supplying the figure to Mr. Mollman, do you know?

Mr. Taylor: I object to the question on the ground Mr. Clark is not qualified to answer that.

Mr. Myskowski: If you want to keep it a secret—all right, sir.

By Mr. Myskowski:

Q. On page 3 you show that there was a total of five pieces of floating equipment owned and operated by the Pennsy at Baltimore, is that right, sir?

A. Owned by the Pennsylvania at Baltimore?

Q. You do not mean that is all the equipment necessary [fol. 1523] to handle the Pennsylvania traffic in lighterage service?

A. I am showing just what it stated, the lighterage service at Baltimore.

Q. The previous sentence at the top of the page "Maintained to Meet the Transportation Need of that Port," is completely unconnected with what follows later on?

A. We are showing here what the equipment at various ports is. At Baltimore the tug and lighter operations are performed by the Atlantic Transport Co. under contract.

Q. Yes, I know, sir, but you say the most striking difference among the ports of New York, Philadelphia and Baltimore indicative of both higher cost and greater operation at New York is the marine equipment that must be supplied, operated and maintained to meet the transportation needs of that port in contrast to the ports of Philadelphia and Baltimore?

A. Yes, sir.

Q. If somebody else is supplying them, is it not being supplied to meet the needs of the port?

A. Well, sir, you should join with that statement the tabulation at page 5 where it is shown that only 28 per cent is waterborne at Baltimore—29 per cent.

Q. Mr. Heywood showed 100 per cent of your box-car traffic was lightered, sir.

A. I am not testifying for Mr. Heywood.

[fol. 1524] Mr. Taylor: Mr. Clark has already testified on that point.

By Mr. Myskowski:

Q. Do you happen to know how much you pay the Atlantic Transport Co. for this lightered help, this lighterage service?

A. I do not know what the rate is today.

Q. What was the rate the last time you saw it?

A. About 15 years ago.

Q. What was it then?

A. Around 50 or 75 cents a ton then.

Q. So you do not think it would be 43 cents today, do you?

A. I do not know.

Mr. Myskowski: That is all.

Exam. Boat: That seems to be all.

(Witness excused.)

Exam. Boat: The hearing will stand adjourned until April 10 at 9:30 a.m. at this place.

(At 4:20 p.m. the hearing was adjourned until 9:30 o'clock a.m., April 10, 1958.)